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Letter dated 12 June 2015 from the Permanent Representatives of Australia, Finland, Germany, Greece and Sweden to the United Nations addressed to the Secretary-General

We have the honour to forward to you the Compendium of the High-level Review of United Nations Sanctions (see annex). The Compendium is the report of the Review, sponsored by the Governments of Australia, Finland, Germany, Greece and Sweden, and launched at the United Nations on 28 May 2014, to consider ways of updating and strengthening the implementation of sanctions.

We would be grateful if the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 115, and of the Security Council.

(*Signed*) Gillian **Bird**
Ambassador, Permanent Representative of Australia

(*Signed*) Kai **Sauer**
Ambassador, Permanent Representative of Finland

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Annex to the letter dated 12 June 2015 from the Permanent Representatives of Australia, Finland, Germany, Greece and Sweden to the United Nations addressed to the President of the Security Council*

Compendium of the High-level Review of United Nations Sanctions

June 2015

* The present annex has been issued without formal editing.

PREFACE

The world community relies with increasing regularity on UN sanctions as its most powerful non-military response to threats to global peace and security. When properly applied and implemented, UN sanctions are a versatile and effective mechanism for responding to the expanding permutations of security threats and challenges. The High Level Review of UN Sanctions (HLR) is the latest manifestation of the international community's continual efforts to shape and enhance this tool in deterring proliferation, terrorism, gross violations of human rights, and supporting peaceful transitions.

Building on previous processes – the Interlaken, Bonn-Berlin, Stockholm and Greek initiative – the HLR focuses on the implementation of UN sanctions. Sponsored by our Governments, the HLR convened numerous Members States, the Secretariat, as well as other UN bodies and international organizations, together with practitioners and experts from the public and private sectors, all of whom participated in the Review and contributed to this rich and incisive Compendium.

The 150 recommendations contained in the Compendium are intended as a starting point for initiatives and discussions in relevant bodies to further refine sanctions and their implementation to better protect nations and victim communities, enhance the preventive benefits of sanctions, and shape targeted measures with even greater precision. The Compendium serves as a reminder that the implementation of sanctions is not the responsibility of a few but a shared obligation of all Member States under the UN Charter. Where the responsibility to implement sanctions exceeds the capacity of frontline and other States, effective assistance must be made available. Integrative approaches to sanctions implementation strengthen the global community's ability to combat new threats that inevitably will emerge and demand determined responses.

At the outset of the Review, Deputy Secretary-General Jan Eliasson urged particular attention to three specific issues – for the HLR to contribute to a better and wider understanding of Security Council sanctions; that the Review strengthen UN support for the design, implementation and frequent adjustment of sanctions regimes; and that individuals, entities and states subject to sanctions be granted due process, reiterating the 2005 World Summit's call. After dozens of workshops and consultations involving hundreds of participants, the HLR has contributed significantly to these objectives and more. The integrative effect of the HLR has helped to promote greater cooperation and understanding between UN bodies, missions, and programmes that otherwise would not have engaged on sanctions implementation issues. A robust affirmation of enhanced methodologies, transparency, and accountability by all sanctions policymakers will further strengthen the UN's commitment to ensuring the protection of human rights and due process including for those to which sanctions are applied.

On behalf of sponsors and organizers, we express our gratitude to the many participants in this HLR process. We hope that this Compendium of practical recommendations and ideas will be a valuable resource to those actors responsible for implementing sanctions, and serve as a basis for further efforts to enhance UN sanctions as a means of strengthening international peace and security.

(*Signed*) Gillian **Bird**
Ambassador, Permanent Representative of Australia

(*Signed*) Kai **Sauer**
Ambassador, Permanent Representative of Finland

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(*Signed*) Dr. Catherine **Boura**
Ambassador, Permanent Representative of Greece

(*Signed*) Olof **Skoog**
Ambassador, Permanent Representative of Sweden

ACKNOWLEDGEMENTS AND DISCLAIMER

This Compendium represents the output of more than six months of study and discussion of UN targeted sanctions during 2014. While the High Level Review of UN Sanctions (HLR) was sponsored and supported financially by the Governments of Australia, Finland, Germany, Greece, and Sweden, the contents of this Compendium do not imply governmental endorsement by any sponsoring state. The sponsors facilitated the research, hosted numerous HLR workshops, meetings, and consultations, and contributed to the development of this document. The Compendium was prepared by the HLR organisers, Sue Eckert of the Watson Institute for International Studies, Loraine Rickard-Martin and Enrico Carisch of Compliance and Capacity Skills International, with support from Alix Boucher.

Through the three working groups, the HLR consulted with a broad range of stakeholders and actors involved with UN sanctions. These included members of the Security Council, sanctions committee chairs, other Member States (especially those directly affected by UN sanctions), national officials, the UN Secretariat and UN agencies/departments/offices/programmes, coordinators and members of Security Council expert groups, the Ombudsperson and Focal Point for Delisting, relevant international organizations and arrangements, regional organizations, civil society groups, the private sector, and academic groups and experts. To the extent possible and within time constraints, the HLR sought to be as open and inclusive as possible.

This Compendium of the High Level Review of UN Sanctions does not represent consensus or seek to express the unified views of participants or those consulted. Rather, it presents ideas many found useful during deliberations and worthy of further consideration. Where the Compendium provides recommendations for various actors (e.g., Security Council, Member States, the Secretariat, sanctions committees, expert panels, etc.) it does so as suggestions and is not intended to intrude on the authorities of those groups.

While the working group and Compendium production phases are complete, the HLR process will continue hopefully to provide a basis for engagement on these issues. The HLR website will be maintained and provide a source of information related to UN sanctions, and the organisers invite further dialogue on sanctions-related topics. Beyond the public presentation of the Compendium in mid-2015, additional meetings and workshops addressing various issues raised during the HLR are expected to take place.

On behalf of the sponsors and organisers, we thank all participants in the HLR process for their generous contributions of time, insights, and ideas to the Review. We trust that the following Compendium of HLR results will be useful as we collectively work to strengthen the instrument of UN sanctions.

ABBREVIATIONS

AG	Australia Group
ATT	Arms Trade Treaty
AU	African Union
CTC	Counter-Terrorism Committee
CTED	Counter-Terrorism Executive Directorate
DPA	Department of Political Affairs
DPKO	Department of Peacekeeping Operations
DPRK	Democratic People's Republic of Korea
ECHR	European Court of Human Rights
EU	European Union
FATF	Financial Action Task Force
HLR	High Level Review (of UN Sanctions)
IAEA	International Atomic Energy Agency
IAWG	Interagency Working Group on UN Sanctions
ICAO	International Civil Aviation Organization
ICC	International Criminal Court
IHL	International Humanitarian Law
IMO	International Maritime Organization
MRM	Monitoring and Response Mechanisms
MTCR	Missile Technology Control Regime
NSG	Nuclear Suppliers Group
OCHA	Office of the Coordinator for Humanitarian Affairs
ODA	Office of Disarmament Affairs (UN)
OECD	Organisation for Economic Cooperation and Development
OHRM	Office of Human Resources Management (UN Secretariat)
SCAD	Security Council Affairs Division
SGBV	Sexual and Gender-Based Violence
SRSG	Special Representative of Secretary-General
STC	Sanctions Technical Committee

TFC	International Convention for the Suppression of the Financing of Terrorism
UN	United Nations
UNCAC	UN Convention against Corruption
UNSC	United Nations Security Council
UNTOC	UN Convention against Transnational Organised Crime
UNSCAR	UN Trust Facility Supporting Cooperation on Arms Regulation
UNSCR	United Nations Security Council Resolution
WA	Wassenaar Arrangement
WCO	World Customs Organization

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EXECUTIVE SUMMARY

Background

In May 2014, Australia, Finland, Germany, Greece, and Sweden launched the High Level Review (HLR) of UN Sanctions to consider ways of updating and strengthening the implementation of sanctions. As part of the UN's collective security framework, sanctions are utilised with increasing regularity to address a growing diversity of threats to international peace and security, including terrorism, WMD proliferation, human rights violations and atrocities, sexual and gender-based violence, and protection of civilians and peacekeepers in armed conflict, serving preventative and protective roles. Effectively implemented Security Council sanctions can and do play a critical role in promoting peace and security. In parallel with progress and innovation in the design and application of UN sanctions, the range of sanctions implementation actors is expanding as well, to include today in addition to Member States, an increasing number of UN system agencies, technical international organizations, the private sector and civil society plus regional and sub-regional organizations — all participating to enhance the effectiveness of this Charter instrument.

In partnership with the Watson Institute of Brown University and Compliance and Capacity Skills International, LLC, three working groups of the HLR, consisting of many Member States and other UN system stakeholders, engaged in broad consultations to assess UN sanctions and develop practical options to enhance sanctions implementation. The result of the six-month intensive study, the *Compendium of the High Level Review of UN Sanctions*, is an amalgamation of the working groups' findings and recommendations. The following summary highlights themes addressed through the development of 150 specific recommendations resulting from the HLR process.

Enhance awareness of sanctions

Greater awareness of the purposes and requirements of sanctions regimes within the UN, the international community, affected regions, and the public, are necessary so they can be better understood, properly implemented, and more effective in advancing Security Council objectives. The rationale, nature, and scope of sanctions should be clearly and widely communicated, and regular engagement with UN membership and stakeholders prioritised. Training on sanctions implementation should be provided to the stakeholders, including regional organizations and private sector groups to promote greater awareness and compliance with sanctions.

Promote UN integration and coordination

Institutional coordination within the UN leaves room for improvement. Sanctions should be integrated with other UN responses (e.g. peacekeeping and political missions), including between the field and headquarters, and the field and expert groups. Regular briefings, training, and the sharing of expertise and information among UN entities can promote cooperation and greater consistency across sanctions regimes. A new sanctions technical committee should be established to manage interagency coordination; review and monitor sanctions implementation and compliance; develop guidance, best practices, and proposals to improve implementation; standardise committee practices; facilitate cross-cutting and

thematic discussions of sanctions issues; and consider expert group recommendations across regimes.

Strengthen sanctions infrastructure

Improved procedures for recruiting, appointing and supporting (administratively and substantively) expert groups and the Ombudsperson, reflective of their specialised and independent roles, are necessary. To promote effective monitoring of sanctions implementation and compliance, expert groups should enhance evidentiary and investigative methodologies, by benefiting from clusters of subject-area expertise to operating procedures currently in use by other investigative bodies, peer review, and stronger collaborative investigations, and be provided adequate resources, training, and support. An induction and training programme for committee chairs and missions would contribute to improved effectiveness of sanction committees.

Engage relevant international institutions, instruments, and actors

A broad range of institutions and mechanisms, not part of the UN sanctions system (e.g. entities addressing arms control/non-proliferation/export controls, financial controls/commodities, transport/border controls, judicial processes) but with relevant expertise and information, represent opportunities for cooperation on sanctions implementation. A mapping exercise should be conducted of relevant organizations with which greater engagement and information-sharing would promote synergies benefitting sanctions compliance. Stovepipes or barriers between the UN and other entities with pertinent mandates and relevant expertise need to be broken down, and greater consultations, contact, and partnerships explored.

Focus on national-level implementation

Sanctions can be complex and challenging to translate into national measures, a prerequisite for effective implementation. Enhanced interaction between UN policymakers designing sanctions and national level actors — regulatory authorities and the private sector — responsible for carrying out the measures is necessary. Systematic outreach to and engagement of the private sector to understand compliance challenges, such as the need for standard definitions and guidelines, better identifiers and updates of lists, use of catch-all provisions, de-risking concerns and uncertainty leading to over-compliance, and evasion techniques, can result in practical implementation guidance.

Ensure fairness of sanctions procedures to address due process and human rights concerns

Important reforms to ensure fair and clear procedures in the designation of sanctioned individuals/entities have taken place, and the HLR urged the Council to continue such efforts through routine review of designations, greater transparency of decisions, and consideration of extending the mandate of the Ombudsperson to sanctions regimes beyond the 1267 committee, and expanding the mandate of the Focal Point.

Enhance capacity building assistance and training

A consistent theme throughout the HLR concerned the importance of building capacity within the UN system and in Member States to understand better and

implement more effectively UN sanctions. Existing assistance relevant to sanctions is under-utilised and needs to be more effectively deployed. A mapping exercise should be undertaken to provide a comprehensive assessment of available assistance and prioritization of states in need of assistance. To ensure appropriate resources and focus on sanctions capacity building, a trust fund should be created.

Ongoing and emerging challenges

To better address threats, sanctions designations criteria should be expanded, thematic sanctions explored, and potential impacts of sanctions on humanitarian activities assessed, including pre-assessments and consultations with humanitarian actors. Emerging issues which require greater attention include the linkages between natural resources and armed conflict, the plight of women and children as victims, the need to sanction perpetrators, and the use of the internet and digital technologies to incite, recruit and finance violence and extremism.

I. INTRODUCTION

> *By virtue of Article 41 of the UN Charter, the Security Council wields one of its most persuasive instruments. Sanctions can deter non-constitutional changes, constrain terrorism, promote non-proliferation, defend human rights and support peaceful transitions. In almost all of the 25 cases where sanctions have been used by the UN, they have been part of an overarching strategy featuring peacekeeping, peacemaking and peacebuilding elements ... We know that sanctions can work — when they are designed and implemented well and when they enjoy the support of Member States on and outside the Security Council.*[1]
>
> – UN Deputy Secretary-General Jan Eliasson

As global threats to international peace and security have evolved, the UN Security Council has continually innovated an essential element of its collective security framework — UN targeted sanctions. From a blunt instrument with humanitarian consequences to more refined measures targeted on specific goods or services as well as specific individuals and entities, UN sanctions have matured in both design and application.

Over the past quarter of a century, the Security Council has deployed sanctions with increasing regularity to address evolving threats to international peace and security.[2] Today, there are 16 sanctions committees, supported by 71 experts working on 12 monitoring teams, groups and panels, at a price tag of more than $32 million dollars a year. Sanctions have been used to counter international terrorism and the proliferation of weapons of mass destruction; violations of human rights and international humanitarian law, and the protection of civilians; threats to peace and national reconciliation efforts; attacks on UN peacekeepers and publicly inciting hatred and violence; and the illegal exploitation of natural resources such as wildlife or minerals used to finance conflict. Sanctions have also developed as a tool to support governments and regions working toward peaceful transition, recover state

[1] Jan Eliasson, Deputy Secretary-General of the United Nations, Remarks at the High Level Review on UN Sanctions, 28 May 2014, http://www.hlr-unsanctions.org/statements/dsg.

[2] See Appendix I for an overview of UN sanctions, 1990-2015.

assets, provide protective support, and act as a deterrent against violence. The Security Council continues to use sanctions in new situations and innovative ways.

At the same time, related institutions, initiatives and instruments dealing with many of the same threats have multiplied. The growing frequency with which other UN crisis resolution tools are used — peacekeeping and political missions, mediation and special representatives, referrals to international judicial processes — as well as the application of sanctions by regional organizations raises issues of coordination and complementarity. The range of international partnerships addressing aspects of UN sanctions has expanded and never been broader. Today the United Nations interacts not only with Member States and regional organizations, but also with INTERPOL, the International Criminal Court, the Financial Action Task Force, the World Customs Organization, and other functional organizations (e.g. the International Civil Aviation Organization, the International Maritime Organization, export control regimes, etc.). Member States, the private sector and civil society also play critical roles in implementing UN sanctions.

These institutional dynamics and developments reflect the need for the Security Council, the Secretariat and UN agencies, Member States, and related international actors and bodies to continually adapt sanctions to the intricacies of new threats to international peace and security. With limitation on some of the tools in the international toolbox, new ways must be found to make the most effective use of this Charter-based sanctions instrument.

A. The High Level Review

The High Level Review of UN sanctions is an initiative sponsored by Australia, Finland, Germany, Greece, and Sweden, and organised by the Watson Institute for International Studies at Brown University and Compliance and Capacity Skills International, LLC, *to enhance the implementation of UN sanctions* to better address threats to international peace and security through improved integration with the network of internal and external institutions and related legal instruments.

The Review was conducted from May through the end of 2014 by three working groups that examined respectively, UN integration and coordination; the relationship between UN sanctions and external institutions and instruments; and mitigating the humanitarian impact of UN sanctions, and emerging challenges. The working groups included or consulted broadly with Members of the Security Council, the Secretariat, sanctions committees and their expert groups, other relevant UN and external organizations, other Member States, civil society and private sector representatives, to assess current sanctions practices. Committed to more effective, efficient and contemporary UN sanctions regimes, the sponsors tasked the working groups with developing practical, policy-oriented options to enhance sanctions implementation.

In addition to the Member State-led HLR working groups, the United Nations Department of Political Affairs convened an *Interagency Working Group on UN Sanctions* (IAWG) to consolidate UN inputs into the HLR. Comprised of 20 entities, the IAWG identified key issues and provided written input to the HLR based upon deliberations over several months. The IAWG continues to function as an internal UN forum for discussion of sanctions-related concerns and issues.

B. Working Groups' Mandates and Methods

All working groups took as a starting point existing UN sanctions that the Security Council has authorised in resolutions. The Review did not examine the question of when, or for how long, the Council should apply sanctions to particular situations; it focused on what happens after the Council decides to apply sanctions. Likewise, as the Review examined relevant external organizations, it did not suggest mandate changes for the respective institutions, but rather focused on ways to enhance implementation of UN sanctions through improved cooperation and information-sharing.

Working Group I

Chaired by Australia, Working Group I's terms of reference focused on how the UN system comes together, both internally and with relevant States, in implementing the Council's sanctions resolutions. The working group's objective was to develop a blueprint for the optimum implementation of the Council's decision to apply sanctions, including a mechanism that would both allow collective discussion of sanctions implementation issues that cut across multiple sanctions regimes, as well as facilitate the provision of technical assistance to relevant states.

In addition to the four other sponsoring States, Working Group I comprised representatives of all members of the Security Council for 2014, as well as all UN departments, offices, funds and programmes represented on the IAWG. Working Group I consulted with key stakeholders of UN sanctions regimes through requests for written submissions and a series of thematic workshops held in New York from July through October 2014. All members of the working group were invited to participate in the thematic workshops. In total, 57 States not members of the working group were invited to make written submissions and participate in the workshops; of these, 32 participated over a series of five workshops and/or provided written submissions.

In addition, workshops were held with UN stakeholders including Chairs of Security Council sanctions committees; coordinators of Security Council expert groups; the Ombudsperson and the Focal Point for Delisting; the Secretariat; and technical assistance providers. Participants discussed their engagement with the existing sanctions system (sanctions committees, expert groups, and the Secretariat that supports both), and shared their views on how well the sanctions themselves, and the system, coordinated with and complemented other elements of the UN's response to the situation, as well as any relevant regional initiatives. Participants addressed ways to support the effective implementation of sanctions on the ground, and how the UN system might better assist Member States in carrying out their obligations to implement sanctions.[3]

Working Group II

Working Group II, chaired by Sweden, focused on the interaction and integration across relevant departments of the UN Secretariat, and between the UN and related

[3] During its Presidency of the Security Council in November 2014, Australia, in its national capacity, sponsored a draft resolution for consideration by Security Council members, based on some of the findings and recommendations of Working Group 1. The resolution was not put to a Council vote.

external institutions, instruments, and mechanisms, addressing sanctions issues, including the private sector. Working Group II also sought to define capacity building opportunities and requirements of these institutions, and to assist in closing gaps in the sanctions implementation chain. In particular, the group addressed the needs of those at the national level implementing sanctions, i.e., national regulatory agencies and economic operators.

Working Group II addressed interaction in three specific areas: international arms control, non-proliferation and export controls; financial controls; and international criminal justice. These three subfields represent different issue areas where various types of controls or actions decided by other bodies operate simultaneously with UN sanctions.

With most of the related organizations or arrangements headquartered outside of New York, the working group chairs conducted a number of consultation trips to seek the views of those organizations and arrangements on the intersection with UN sanctions and opportunities for enhanced mutually beneficial interaction. Among the organizations consulted were the Vienna-based Wassenaar Arrangement, Nuclear Suppliers Group, IAEA and CTBTO as well as the UNODC (TPB); Paris-based FATF and OECD (on due diligence for the trade in certain natural resources); various parts of the European Commission and the European External Action Service, SWIFT and the European Banking Federation in Brussels; and the Hague-based ICC and ICTY. Consultations were held with a group of senior compliance officers of major U.S. financial institutions. The results of these consultations, many of which were of a fact-finding and preliminary character, were reported back to the working group via postings on the project website and orally at the series of meetings which was convened in New York to seek the views of, primarily, UN bodies and Member States.

Working Group II meetings were open to all Member States and benefitted from an active participation of several UN bodies, including the DPA, ODA and OLA and several sanctions expert groups, and a number of external organizations and institutions, including INTERPOL. A visit to headquarters in Lyon could not be scheduled but INTERPOL officials participated in NY meetings. Working group meetings were also open to representatives of concerned private sector and academic groups, and written contributions were received and made available on the project website. The working group examined the three issue domains, partly in the format of plenary, partly in that of sub-groups, and summaries of the deliberations were subsequently posted on the project website. Germany organised a well-attended practically-oriented workshop focused on national implementation of export controls and sanctions by national regulatory agencies and the private sector. Finally, a series of findings, common or specific to the three subject matter areas was approved through silence procedure involving those who had taken an active part in the work. In this process further valuable remarks were taken into consideration. The Chair later developed this document into a working group report, which is available on the HLR website.

Working Group III

Chaired by Greece, Working Group III focused on ways to minimise the humanitarian consequences of sanctions, enhance cooperation with regional organizations, and address ongoing and emerging challenges and opportunities in the implementation of UN sanctions regimes.

Germany joined Greece as a co-chair of a workshop held in Athens in October 2014, specifically focused on the topic of minimising the humanitarian impact of sanctions. The working group's meetings explored ways to enhance collaboration and information-sharing among sanctions monitoring and humanitarian actors, including through pre-assessment/assessments in safeguarding against the unintended consequences of sanctions, the adequacy of the current system of humanitarian exemptions, and means to manage tensions between mandates that allow collaboration in achieving and reinforcing mutual goals. Working Group III also addressed the interaction of the UN with regional organizations, including information exchanges between UN sanctions committees and their counterparts, and other mechanisms for enhancing the implementation of UN sanctions.

In conducting its work, Working Group III consulted a broad range of actors including members of the Security Council, the UN Secretariat and UN agencies, other Member States, UN expert groups, the Ombudsperson, regional organizations, and civil society (e.g. non-governmental organizations (NGOs), academia). Written contributions assessing current sanctions practices were solicited and appear on the working group webpage. Working group meetings were inclusive and collaborative, including practitioners with extensive field experience in the implementation of UN sanctions and humanitarian mandates, and former and current members of expert groups. Participants' practical experience dealing with challenges that may complicate the interaction between sanctions and humanitarian and human rights actors proved valuable in providing fresh insights that challenged conventional thinking on relevant issues.

Working Group III also considered ongoing and emerging challenges and ways in which sanctions might usefully play a role, which included natural resources and the environment; the use of digital technologies and the Internet for propagating hate speech,, promoting terrorism through raising funds and recruitment; the protection of women and girls, among other ongoing challenges such as due process and delisting concerns. The Working Group III report is available on the HLR website.

C. Compendium Results

This Compendium represents the output of the six-month intensive study of UN targeted sanctions conducted by the three HLR working groups. It includes a structured amalgamation of the working groups' findings and recommendations, but is not intended to duplicate the deliberations of each group. Rather, meeting and consultation summaries, reports, statements and related information — which are available on the project website: http://www.hlr-unsanctions.org/ — represent important additional resources upon which HLR findings and recommendations are based. Shaded boxes contain numbered recommendations from the various working groups' discussions and findings.

Throughout the HLR process, a significant number of individuals participated in numerous meetings and consultations, some speaking in their individual and not necessarily institutional capacities. The many participants from the Security Council, the UN Secretariat and UN agencies, other Member States, UN Expert Groups and the Ombudsperson, the Focal Point for Delisting, international and regional organizations, the private sector, and academic and civil society organizations, expressed a variety of views on the many sanctions-related issues.

Their active participation, time, and input are very much appreciated. The content of this report, however, does not necessarily reflect unified views of participants, but rather presents ideas that many found useful for further consideration. The responsibility for the content rests with the organisers in consultation with the sponsoring states.

Finally, while the High Level Review of UN Sanctions was sponsored and supported financially by the Governments of Australia, Finland, Germany, Greece, and Sweden, the contents of this Compendium do not imply governmental endorsement by any sponsoring state.

II. IMPLEMENTATION

The first condition for effective sanctions is that the sanctions are fully and faithfully implemented by Member States. Sanctions applied by the Security Council under Article 41 of the Charter of the United Nations to maintain or restore international peace and security form an integral part of the collective security framework enshrined in the Charter. It is a condition of membership of the United Nations to accept and carry out the Council's decisions relating to sanctions, as for any Council decision, according to Article 25 of the Charter.

Yet the legally binding nature of Council sanctions is not a sufficient condition for their effective implementation and enforcement by Member States. The political character of sanctions can, on occasion, overshadow their operational importance. Part A examines the potential impacts of the political context on the perceived legitimacy of sanctions, and how well the sanctions system makes the case for a sanctions regime, particularly to the key stakeholders whose implementation is most determinative of the regime's effectiveness. The technical character of sanctions can equally pose implementation challenges in their translation into national legal systems. Part B examines the sanctions system's effectiveness in communicating the technical requirements of the sanctions measures to facilitate the ability of States to comply with and enforce them.

A. Making the case for compliance

At a fundamental level, sanctions are political. The decision to apply them to a particular situation, the choice of goods, individuals or entities targeted, and the intended outcome are all political decisions of the Council in response to the crisis: and, of course, the crisis itself has its own political dynamic that colours and is coloured by the sanctions. The Council needs States who are directly affected by the crisis, but were not directly involved in making the decisions, to cooperate with each other, and with the institutions the Council has established to administer the sanctions, in order to achieve the outcome intended for the sanctions.

It was therefore not surprising that the Review encountered an enduring perception that, at least in some instances, sanctions-related decision-making by the Council and its subsidiary bodies was motivated by political rather than security considerations and was therefore unfair. Sanctions also tended to be judged collectively on the basis of the least effective element or example. They were still perceived as being "imposed against a State", even in cases where the sanctions

were intended to support the relevant Government and were implemented in partnership with that Government. Finally, the more a State directly affected by the sanctions regime felt removed from the governance of those sanctions, the more alienated that State would feel, negatively impacting its motivation to support and comply with the sanctions.

Further complicating a commitment to compliance was the real or perceived financial cost of sanctions implementation. Effective implementation requires national regulatory capacity and resources that challenge small states generally but is particularly difficult for those States to whose territories sanctions typically apply, emerging from conflict likely triggered by a pre-existing institutional fragility. But the Review was also told that sanctions, however well targeted, could have an impact on legitimate trade with the targeted State, due to payment and delivery delays caused by sanctions compliance measures, thereby creating a competitive disadvantage vis à vis other States less rigorous in sanctions implementation.

The Review also considered the political impact on the perception of sanctions related to the potential conflict between sanctions targeting individuals and entities and national laws and policies protecting civil economic and social rights. A lack of fairness and transparency in the process that placed individuals or entities under sanctions, and the inability to engage meaningfully with the sanctioning body on the reasons for the sanctions (or what "proof of innocence" or commitment to alternative conduct would see the sanctions removed) could erode the motivation of States to comply with the measures. This conflict could impede national implementation of sanctions, or prevent cooperation or information-sharing related to the implementation or enforcement of those measures with other Member States, sanctions committees or expert groups.

The Review heard that the effectiveness of sanctions to maintain or restore international peace and security to the situation to which they were applied depended upon a mutual conviction within the relevant region that the sanctions were themselves just, contributed to regional peace and stability, and contributed to individual States' security. Regional consensus regarding the legitimacy of sanctions cannot be taken for granted: it needs to be built and nurtured. It is important from the outset, and throughout the life of a sanctions regime, to communicate to the affected region the reasons and objectives of sanctions. Better integration of UN sanctions with relevant regional institutions and initiatives would help in this regard, as well as reinforcing and supporting sanctions measures.

This was particularly the case given the importance of cooperation among Member States, as well as between Member States, relevant regional organisations and the Security Council's sanctions actors, to ensuring effective implementation of sanctions. National and regional security is deeply interlinked in regions characterised by porous borders, poorly secured stockpiles of arms, and weak governance capacity. Consultations illustrated both how regional collaboration could overcome these vulnerabilities through information-sharing and cooperation, and how interstate hostility could undermine cooperation and expose the region to further conflict. Sanctions committees need to be more proactive in advocating cooperation in sanctions implementation and in providing guidance on interstate cooperation, especially on border-related issues or where bilateral relations between stakeholder States are inadequate.

A number of States' comments highlighted the importance of regional institutions and initiatives, with their own interest in and responses to the same crisis that triggered UN sanctions, as potential partners for sanctions committees in both enhancing the region's engagement with the sanctions measures and in ensuring coordinated action between the Council and the region. Regional organisations can provide a political and technical forum for engagement with the sanctions regime, a vehicle both for awareness raising and potentially for the delivery of implementation assistance.

Under its mandate from the Security Council, a sanctions committee is the primary interface between the UN sanctions system and Member States. How it engages with the States most directly affected by the sanctions regime (the State to whose territory the sanctions apply, its immediate neighbours, as well as regional and subregional organisations) is therefore a significant factor in building the legitimacy of the sanctions measures and mobilising support for their effective implementation.

Individual sanctions committees are increasingly making an effort to engage with stakeholder States to strengthen the legitimacy of the relevant sanctions regime. Committees now routinely invite the principal stakeholders — the State to whose territory the sanctions apply, States from the relevant region, as well as relevant regional organisations — to participate in sanctions committee meetings, to provide a national or regional perspective relevant to the implementation and effectiveness of the sanctions, to address the concerns of the committee or to discuss expert group reports. Committee Chairs are conducting more field visits (at the invitation of Member States and where security conditions allow) to gain a more immediate understanding of the situation, demonstrate transparency and the collaborative (and not punitive) nature of the sanctions to the host country, and also to establish contacts on the ground which can help to solve problems faced by the committee.

Committees are also improving their accountability to the broader UN Membership, which also has a stake in the Council's administration of the sanctions that they are obliged to implement. The number of sanctions committees reporting to the Council in public has increased: prior to May 2014 there were only three (the 1267 committee related to Al Qaida, the 1737 committee related to the Iranian nuclear programme and the 1970 committee related to Libya); since then, four more have begun to report in public (the 1572 committee on Côte d'Ivoire, the 2127 committee on the Central African Republic, the 2140 committee on Yemen, and the 2206 committee on South Sudan). More are expected to follow this trend. Similarly, sanctions committees are increasingly issuing press releases related to committee activities (as distinct from press releases notifying updates to sanctions lists, committee guidelines or implementation assistance notices).

1. *All sanctions committees should present their reports to the Council during a public session.* Briefings not only allow Member States to be kept informed of developments related to sanctions, but also serve to mobilise relevant agencies in Member States to better understand implementation requirements and become more involved in the work of the committees, by virtue of the reports of the briefings sent by New York-based Permanent Missions to capitals.

2. *Chairs of sanctions committees with similar themes* (non-proliferation, counter-terrorism) or geographical scope (West Africa, Horn of Africa) *should organise regular joint meetings* (including in the regions) to promote understanding of similar issues and challenges. Similarly, the Secretariat should organise targeted meetings with New York-based regional groups on challenges to sanctions implementation and possible assistance.

3. The Secretariat, in consultation with the Council, should *conduct a general public education campaign to promote greater understanding and awareness of UN sanctions*, including the publication of guidance on the nature of sanctions, their purpose, objectives, and the roles of different actors.

B. Communicating implementation requirements

Implementing sanctions is not straightforward. Sanctions measures can be complex and challenging to translate into national regulatory systems. Sanctions implementation also requires the existence of institutional capacity and resources within States to monitor borders, goods, and financial transactions. These difficulties multiply exponentially when seen from the perspective of the States whose implementation and enforcement of sanctions are most determinative of their effectiveness — the State to whose territory the sanctions apply and those States in its immediate region. The absence of, or inadequacy of national regulatory capacities, can be a contributing factor in the escalation of the crisis thus precipitating Council sanctions.

As noted during HLR consultations, the first step toward "facilitating" implementation is to raise awareness of the sanctions regime's existence and build greater understanding of the measures required. Sanctions resolutions adopted by the Council are often long and complex, and generally represent a cumulative process of addition and amendment. The absence of a clear articulation of the sanctions measures has an impact on implementation, not least given that in many States, the sanctions resolutions need to be translated into the national language for implementation purposes. Member States regularly called for sanctions implementation to be simplified and made consistent.

Similarly, consultations revealed the impression that there is no timely or reliable source of assistance for Member States on sanctions implementation. Only five of the sixteen sanctions committees have produced publicly available implementation guidance on the measures they administer, and many of these relate to committee procedures rather than an explanation of the measures. Seeking advice directly from the committee takes too long; the monitoring and investigative role of the expert groups often leaves them with little scope to provide implementation guidance to States; and some Member States are reluctant to seek advice from the Secretariat owing to the sensitivity of the information. Member States contrasted this situation with the clear lines of communication and timely response in relation to the Council's counter-terrorism obligations, through the Counter Terrorism Committee's Executive Directorate.

Participants also expressed concerns with the lack of consistency in sanctions implementation guidance. With each committee having a different dynamic and committee members being political rather than technical experts, technical implementation guidance risks inconsistencies across sanctions regimes. Differences of approach in basic administrative matters across committees — from the publication and dissemination of sanctions information to cooperation with other international bodies on sanctions implementation — were also noted. There is currently no mechanism for expert group recommendations or procedures of one committee to be applicable to other sanctions regimes so as to ensure consistent approaches to implementation across regimes.

Uneven resourcing of individual sanctions committees was also a subject of discussion. The Subsidiary Organs branch (Sanctions Branch of the Secretariat) organises its support along committee lines (that is, allocating staff to support individual committees). This can result in inconsistencies in the administration of different sanctions regimes and in the way committees conduct business that are not justified by the technical requirements of the regimes themselves. It also prevents the Secretariat from acting as a point of coordination on committee practices.

Such technical inconsistencies do not serve Member States' needs for clear guidance on implementing sanctions. The current system provides multiple sources of sometimes inconsistent advice and different treatment of the same types of measures. Worse, the system begins to have its own political dynamic. Differing committee procedures, for example regarding the length of time decisions can be deferred, lead to perceptions that some sanctions are more important than others.

The consultations revealed that the two dimensions of sanctions administration, the political (Member State engagement, decision making) and the technical (dissemination of sanctions measures and guidance on implementation), demand different approaches. The "political dimension" of each sanctions regime requires a dedicated sanctions committee to manage the relationships with interested States and organisations, to monitor implementation, and consider responses to non-compliance, as well as to make decisions that are calibrated to achieving the goals set by the Council for that regime. Examples of such decisions are exemptions from sanctions measures or the application of sanctions measures to individuals or entities.

The "technical dimension", meaning requirements for national implementation and the way in which these are communicated to Member States and other relevant actors, is not well supported by the current structure of regime committees and their supporting secretariat. At the national implementation level, the sixteen complex political situations to which sanctions apply are distilled down to three or four regulations, each of which gives effect to one of the broadly uniform sanctions types the Council applies (e.g., travel bans, asset freezes, and arms embargoes). The authorities administering these regulations are concerned more with the consistent administration of these sanctions types than the regime-specific political and security situation that triggered the sanctions in the first place. Implementation guidance should be targeted at this audience, and should be designed accordingly: that is, measure by measure, rather than regime by regime. A single Council guidance on, for example, implementing arms embargoes, could still set out the different exemption arrangements applicable to each regime.

To facilitate effective implementation of Council sanctions at the national level, the Council needs a mechanism to allow for collective, cross-cutting discussion and decision-making on the technical administration of its sanctions regimes, including the issuing of implementation guidance.

4. *The Security Council should establish a standing Sanctions Technical Committee (STC), comprised of the sanctions experts from the missions of each Council Member.* Responsible for ensuring the consistent interpretation of and implementation guidance for the same sanctions measures across different sanctions regimes, the STC would provide uniform, best practice administration of UN sanctions, and provide a forum to consider expert group recommendations across regimes. The STC should propose a standard set of guidelines for the work of all sanctions committees, and sanctions committees should only deviate from these guidelines where provisions of relevant resolutions require it.

5. *The STC should, in collaboration with sanctions committees, prepare and publish consolidations of each type of sanctions measure in a clear and common format*, regularly update them, and consider the adoption of implementation guidance to accompany each of these consolidations.

6. *The Subsidiary Organs Branch should organise its support to sanctions committees functionally to ensure uniformity in the administration of measures across regimes, and strengthen its analytical support to Member States and expert groups.* Individual teams would deal with arms embargoes, asset freezes, travel bans, list maintenance issues (inclusion/removal of individuals/entities from sanctions list for all committees). The Branch has taken this step in relation to the maintenance/publication/dissemination of a single consolidated list of individuals and entities subject to all Security Council sanctions.

7. *The Subsidiary Organs Branch should organise contact groups according to expertise (e.g., arms, financial, natural resources) across expert groups to exchange ideas and develop recommendations to improve technical implementation of the sanctions measures.* Such contact groups would also enable cross-sharing of information and techniques.

The consultations also highlighted the evident and widespread need for more information regarding sanctions, in a format accessible to national and private actors. Implementation Assistance Notices created by sanctions committees should be standardised and generalised to address cross-cutting subjects common to all UN sanctions regimes. For legitimacy, such guidance should have a clear UN identity, even when it draws on technical expertise and best practices of other institutions operating in related fields (e.g., export control arrangements, FATF). Other organizations with expertise related to sanctions, as discussed in section VII, can serve as inspiration in the development of practical UN guidance.

The late 2014 publication by the Secretariat of a Consolidated United Nations Security Council Sanctions List, comprised of all individuals and entities subject to UN sanctions in a single format, addressed an oft-raised complaint from Member States. Because measures applicable to the individuals and entities are the same, regardless of which committee administers them or the reasons for the sanctions, national authorities were forced to create their own consolidations from individual committees' lists. This task was made considerably more difficult by the difference in both documentary and electronic formats of the individual committee lists.

Another common concern for implementation of UN sanctions is the need for more detailed identifying information regarding the individuals and entities on targeted sanctions lists. Lack of identifiers such as dates and places of birth, registration numbers and addresses for entities, passport numbers, etc., hampers national implementation of targeted financial and travel sanctions. Building on progress of the 1267 Committee and its Monitoring Team, sanctions committees should continue efforts to compile and provide more specific information and updated identifiers on all UN-designated individuals and entities.

8. *The Secretariat should continue to publicise the Consolidated list, including in all UN languages (and, as appropriate, in other languages), and update it regularly.* When updating, the entire list should be republished, not just notices of changes made.

9. *Implementation Assistance Notices and other forms of guidance should be standardised to address cross-cutting subjects common to UN sanctions regimes.* Additional forms of implementation guidance should be developed for Member States and private actors, and have a clear UN identity.

10. *Sanctions committees, supported by expert groups, should intensify efforts to provide more specific information and updated identifiers on all UN-designated individuals and entities.*

C. Cross-regime assessments and lessons learned

As will be discussed in the following section, expert groups are mandated by the Security Council to report on sanctions violations. A symptom of the "siloed" approach the Council currently takes to sanctions is that little systematic assessment of these reports is conducted to compare patterns and trends in sanctions violations. Such analysis, particularly if cross-referenced to similar analysis done by other entities, such as the typological work of the FATF (although specifically related to sanctions countering terrorism or proliferation financing, the lessons can be extrapolated to other financial sanctions), the World Customs Organisation (WCO) on arms trafficking, or export control mechanisms, could be helpful in understanding the scope and impact of the sanctions, contribute to improved sanctions enforcement, and help raise awareness among states about UN sanctions obligations. This should include experiences gained by the 1540 Committee in facilitating adoption of national implementation plans, promoting national

interagency efforts, enhancing synergies of international and regional organizations, and building partnerships with key stakeholders including civil society and industry.

11. *The Council should undertake a "lessons learned" exercise concerning the implementation of sanctions, based on a comprehensive study and analysis of sanctions violations and evasions across regimes.* Research by other entities on matters useful in discerning patterns and trends and in preventing and detecting illicit movements of goods, people and funds across borders, should be utilised.

12. As part of the study and on a regular basis, *the Subsidiary Organs Branch should convene topical discussions among functional contact groups with sanctions stakeholders, including the private sector, to identify cross-regime sanctions compliance challenges.*

III. MONITORING IMPLEMENTATION AND COMPLIANCE

Security Council resolutions consistently mandate committees to monitor implementation of the sanctions measures with a view to strengthening, facilitating, and improving implementation by Member States; to examine and take appropriate action on information regarding alleged violations or non-compliance with the measures; and to encourage a dialogue between committees and interested Member States (and international, regional and subregional organizations), including by inviting their representatives to meet with the committee to discuss implementation issues.

The Council tasks expert groups to assist the committees in their mandate by gathering, examining and analysing information from States, relevant United Nations bodies, regional organizations and other interested parties regarding the implementation of the measures, in particular incidents of non-compliance. As one HLR participant noted, expert groups are "the eyes and ears on the ground for the Security Council, providing key information in critical and sensitive areas."

A. Expert groups

Information gathered by expert groups on behalf of committees is highly sensitive, both politically for the focus State of the regime or any other State named in the report, and reputationally for individuals or entities referenced. Stakeholder States consulted as part of the Review were particularly concerned about the objectivity and evidentiary basis of expert group reports, consultation with relevant States prior to publication of a report's conclusions, as well as some capacity to update or correct the record following publication. They also sought a clearer understanding of the mandate of expert groups to visit or seek information on security sector institutions, noting the importance of balancing expert groups' need for information with Member State's security interests. Recommendations were advanced regarding the need for publicly available standardised methodology and guidelines on the criteria and conditions under which expert groups operate, including the handling of confidential information.

Expert group representatives indicated that, in some areas (including evidentiary standards and basic procedures), clear, publicly available methodologies regarding how expert groups conduct their work were desirable, not least as a way of making Member States feel more secure in dealings with expert groups and thus more willing to share information. Some experts pointed specifically to the 2006 Report of the Security Council Informal Working Group on General Issues on Sanctions[4] as representing useful guidance in this respect. Given the differing mandates and characteristics of each expert group and the different political and security circumstances of each sanctions regime, some experts commented that broader efforts to standardise their work would likely constrain the expert groups' dexterity and quality of work and could compromise their independence.

It is important that individual expert groups continue to develop recommendations for the improvement of sanctions implementation based on their observations and experience in the field. Such recommendations have driven significant improvements in the administration of Council sanctions, and been responsible for establishing partnerships with international organisations whose systems and networks have improved the operational effectiveness of sanctions. The Sanctions Technical Committee would provide a forum to consider the applicability of recommendations by expert groups related to implementation to other regimes.

13. *Expert groups, in consultation with UN bodies with analogous investigative mandates, such as the Office of the Ombudsperson and UN human rights bodies, should develop evidentiary and investigative standards*, using as a starting point the 2006 Report (S/2006/997).

14. *The Secretariat should facilitate training on standards for expert groups, including on the conduct of an investigation, the management and protection of informants and information*, to be provided by specialised investigators from UN bodies such as the Office of the Ombudsperson or the International Criminal Tribunals (for the Former Yugoslavia and for Rwanda) or from within the Secretariat, including the Office of Legal Affairs or the Office of Internal Oversight Services.

15. *Expert Groups should establish standard procedures for engaging Member States in the preparation of their reports*, which provide that during the preparation of their reports, expert groups hold interactive discussions on draft conclusions with both the focus State for the regime and any other States to be named in their reports, and allow sufficient time in reporting timelines for such States to forward additional information relevant to a particular conclusion. In the event the State concerned continues to dispute the conclusion, the State's position should be included in the report itself. Such procedures would not only provide a form of "due process", but have the potential to improve the quality of engagement by Member States in the process, including the quality of information provided.

[4] Report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997), at http://www.un.org/ga/search/view_doc.asp?symbol=S/2006/997.

B. Sanctions committees

Once an expert group has submitted its conclusions and recommendations to the relevant committee, the responsibility for taking action on the report, including any action to strengthen, facilitate or improve implementation by Member States, or in response to alleged non-compliance with the measures, rests with the sanctions committee. This transition from the expert group to the committee represents a transition from the technical (information gathering, investigation) to the political (engagement with Member States, action) dimension of implementation and compliance monitoring.

There are indications that this transition does not always work as effectively as the system needs. The HLR heard of perceptions among some Member States that committees did not provide affected Member States with a sufficient hearing in relation to controversial findings in the reports. By not taking responsibility for engaging on the content of the report, the committees were effectively delegating their responsibility for implementation and compliance monitoring entirely to the expert groups.

Interestingly, this perception was reflected among the expert groups themselves, who reported that, where the committee did not properly engage Member States who disputed the expert group's conclusions, the Member States instead sought redress directly from the expert group, usually in correspondence addressed to the Council. The experts highlighted the need for the committees they supported to provide political support in turn to the expert groups by taking responsibility for reconciling the affected State's political issues with the report. Without this political support, the experts are left in a difficult position: having a clear resolution mandate to produce detailed reports on implementation and compliance issues, to which Council members appeared to give no political weight.

At one level, the perception that committees have abdicated their responsibility for monitoring compliance to expert groups is unfair, at least in light of current practice. As previously described, committees routinely hold informal consultations with the focus State of expert reports, or engage relevant States in correspondence at the recommendation of expert groups, as well as take action on other recommendations related to implementation and compliance. But it is fair to say that committees tend to be reactive in their approach, for example to expert group reports that were commissioned by the Security Council in the resolution establishing the expert group's mandate. They rarely direct expert groups to produce specific reports; and more rarely still do they engage the focus State at the beginning of the reporting cycle on the committee's expectations for implementation.

A possible model for a more proactive approach by committees is suggested by the occasional practice of the Council to task either the Secretariat or the relevant expert group to conduct an assessment of the capacity needs of the focus State and its immediate neighbours. In resolution 2142 (2014), the Council asked the Secretary-General to provide options and recommendations on technical assistance to the Federal Government of Somalia in complying with its reporting requirements under the sanctions resolution as well as to improve its capacities in the safe and transparent management of arms. More recently, the President of the Council, at the request of the Chair of the Council's Liberia sanctions committee, similarly asked

the Secretary-General to conduct an assessment mission on Liberia's progress towards meeting the conditions set out in resolution 1521 (2003) for the termination of sanctions, and to provide recommendations on assistance to the Government of Liberia to improve its capacities to undertake the proper management of arms and ammunition and facilitate the effective monitoring and management of the border regions between Liberia and Côte d'Ivoire (see Security Council document S/2014/504 of 17 July 2014).

16. To bring the respective roles of committees and expert groups into a more effective alignment, *sanctions committees should take a more proactive approach to managing relationships with the focus and key stakeholder States*. This could include formalising the committee's expectations in terms of cooperation, information-sharing and implementation requirements. On the basis of this "action plan", the committee's role as the forum to discuss implementation and compliance would be clear, and the expert group's mandate to investigate better understood. The committee could coordinate with the focus State on the question of exemptions to the sanctions measures and on appropriate technical assistance.

C. Member States

The controversy occasionally generated by expert group reports tends to mask the highly cooperative relationship that generally exists between expert groups and Member States. A number of stakeholder States reported close collaboration between expert groups and their national authorities, including on sensitive investigations involving the handling of confidential material. The consultations also revealed a strong interest among Member States for more and closer engagement with expert groups, both with Permanent Missions in New York and with relevant national authorities in capitals. Written submissions called for more bilateral and regional outreach by expert groups, as a means of fostering cooperation and sharing implementation experience.

Just as sanctions committees depend on expert recommendations, so too do expert groups depend on Member States for significant information that comprises expert reports. In submissions to the HLR, experts called for greater effort from the UN system to raise awareness of Member States' reporting obligations and responsibilities; for the Subsidiary Organs Branch to improve its public diplomacy capacity in this regard, in particular through a more modern, informative and lucid website; and for sanctions committee chairs to hold more open briefings on sanctions requirements, as well as to engage bilaterally with Member States who were particularly reluctant to cooperate with expert groups regarding visits or other information. Members of the Iran and the DPRK Panels of Experts, as well as members of the Al Qaida and Taliban Monitoring Team, regularly participate in national, regional and international seminars and workshops designed to raise awareness of their respective sanctions regimes and to promote better implementation and reporting by States. Increasingly, members of "home based" expert groups (where the resolution does not state where the expert group will be

based) are participating in similar outreach activities. Although such activities take time from the investigative mandate, the contacts and networks that such activities foster, as well as the opportunity to deliver messages on cooperation directly to relevant national authorities, make the efforts worthwhile.

17. To broaden outreach to Member States, *expert groups should consider open briefings and participate in more regional outreach activities to promote the importance of implementation and information-sharing.*

D. Individuals and entities named in expert group reports

HLR consultations also considered the situation of an individual or entity named in an expert group report in connection with a sanctions violation or as a candidate for sanctions designation by the committee. Unlike an individual or entity actually included on a sanctions list, there was no recourse for those merely named in reports, despite the fact that serious reputational and financial consequences could result (for example, inclusion in commercially produced AML/CFT monitoring and screening databases). There were mixed views on whether expert groups should be bound to provide a "right of reply" to such individuals or entities. Providing such a right of reply should not be a precondition of naming the individuals and entities in the reports, given that many were difficult to contact (insurgent groups) or politically non-cooperative.

The situation of individuals and entities that may be named is not as clear-cut as for a Member State named in a report. The real issue is the operational appropriateness of naming them in the report in the first place. Non-state actors generally are not bound directly by the Security Council's resolutions, but rather by the national laws of Member States implementing those measures. If the individual or entity is suspected of acting in contravention of the sanctions, there is a risk that notifying them of this suspicion and the evidence for it may jeopardise national investigations or proceedings against them, by "tipping off" the suspects to the investigation. Individuals and entities can of course be placed under sanction by the Council or a committee if they meet the relevant designation criteria. Providing them with prior notice of the possibility of their inclusion on a sanctions list through reference in a report has the potential to defeat the purpose of targeted financial sanctions, by enabling the possible target to conceal their assets in advance of the listing.

18. *The names of individuals and entities suspected of acting in contravention of sanctions measures, or proposed by expert groups for designation by a sanctions committee, should be conveyed to the committee in confidence, and should not be included in the published report.* The committee and the expert group should liaise with the authorities of Member States with jurisdiction over the conduct concerned to share information in support of designation under sanctions or prosecution under national law.

IV. COMMITTEE DECISION-MAKING

When the Security Council establishes a sanctions regime, it delegates significant authority to the sanctions committee to take decisions affecting the scope and application of those measures. The committees' decision-making authority affects Member States, as well as individuals and entities, each category giving rise to issues related to strategic impact, efficiency and fairness.

A. Affecting Member States

Committees' responsiveness when making operational decisions affecting sanctions regimes, such as requests to exempt transactions from sanctions, are potentially sensitive issues in terms of timeliness and explanations for negative decisions. The Review heard that, particularly in relation to exemptions under arms embargoes, unexplained committee decisions to refuse exemptions for arms considered by the focus State to be critical to its security can lead to frustration and an erosion of the political support for the sanctions regime as a whole.

Committee decision-making affecting States will be more efficient and less contentious if there is a continuous dialogue as to the scope of and procedure for exemptions between the committee and the affected State. For example, a committee could consult with a State subject to an arms embargo to determine in advance which arms and related materiel were permissible for the State under exemption and clarify the specific categories eligible for exemption.

19. *Sanctions committees should engage with key stakeholders and ensure that technical and procedural issues are also discussed.*

B. Affecting individuals and entities

Fourteen of the sixteen sanctions committees apply travel bans to individuals, and thirteen committees apply targeted financial sanctions to individuals or entities meeting relevant criteria set by the Council. As at the date of this report, a total of more than 600 individuals (620) and 400 entities (423) are subject to individually targeted sanctions. [NB: 296 names listed under the Iraq sanctions regime are not subject to either targeted financial or travel sanctions. The listing relates to the recovery of assets owned or controlled by those individuals and entities outside of Iraq prior to 22 May 2003].

1. Due process

Multiple HLR working groups heard that committee procedures related to placing an individual or entity under sanctions were not consistent with fundamental principles of the UN Charter because of the absence of adequate due process. International human rights law and instruments provide, and relevant authorities support, the imposition of measures directly affecting the rights of individuals, but require a fair process to ensure individuals are heard and an effective remedy is available. The conflict between these procedures and Member States' obligations to

protect civil and economic rights has created both legal impediments and political obstacles to implementation of UN sanctions.

Legal challenges to designations in the European Union, the Council of Europe, as well as in national courts, have been the impetus for reforms in the Council's listing and delisting procedures (e.g., the creation of a Focal Point for Delisting in the Secretariat and the Office of the Ombudsperson). The Focal Point was established in 2006 for individuals and entities subject to sanctions to petition the Council for removal of sanctions but has remained largely stagnant. In the case of the Al Qaida sanctions regime, the Council also established the Office of the Ombudsperson as an independent review mechanism of delisting petitions, whose recommendation to remove a person from sanctions can only be over-ridden by a unanimous decision of the Al Qaida sanctions committee or a decision of the Security Council itself; the Ombudsperson has been strengthened through successive resolutions over time.

In addressing the adequacy of UN mechanisms for providing effective judicial protection, some courts have declared judicial review as the only form of effective remedy. Whether such interpretation will be adopted or applied more generally is unknown, but litigation concerning UN designations has the potential to erode the credibility of UN sanctions and negatively impact implementation by Member States. It was considered important, therefore, by many HLR participants, to continue efforts to ensure the fairness and transparency of sanctions procedures and to address human rights and due process issues at the UN level.

Notwithstanding these reforms by the Security Council, HLR consultations revealed strong views by some that additional steps are needed to improve the procedural rights of individuals and entities subject to sanctions. Many called for the Office of the Ombudsperson to be given jurisdiction to review all petitions arising from the listing decisions of the sanctions committees. Some called for the Ombudsperson to review listing decisions also before they were made. Proposals by the informal group of like-minded states on targeted sanctions advocating that the Ombudsperson process should be gradually extended to other appropriate sanctions regimes were considered. The Review also heard countervailing political and procedural views to these proposals. Consultations also noted the need for improved procedures on national/regional levels, and the European Union is considering EU institutional and procedural improvements, so as to effectively defend challenges to Security Council listings.

The Review also considered whether empowering the Focal Point with additional authorities — to gather information as currently done by the Ombudsperson (that is, to request information from a range of relevant States and expert group, to seek the views of the relevant committee upon receipt of the petition, and to facilitate the passing of questions from consulted States, the expert group or the committee to the petitioner) but without the Ombudsperson's authority to question States, analyse the information requested and make a recommendation, could provide additional due process. Additional Focal Point-related proposals include requiring the committee to take a formal decision in relation to the petition; fixing a timeframe for decisions to be made; encouraging the provision of reasons to the petitioner for the outcome; and empowering the Focal Point to receive and transmit requests for humanitarian

exemptions, as well as communications from individuals/entities in all regimes which raise issues of continued sanctions post-listing or mistaken identities.[5]

Greater transparency concerning the information/evidence forming the basis for individual listing and for intensifying and deepening cooperation of sanctions committees and the Ombudsperson could improve sanctions procedures and address due process concerns. Additional steps that the Council could take to improve the quality of information underpinning listing decisions include periodic reviews of listings to ensure information is updated and that listings remain appropriate, greater transparency concerning the reasons for listing through narrative summaries for all individuals and entities listed, and greater efforts to inform sanctioned individuals and entities of the availability of exemptions under the relevant resolutions, as well as options to petition for the removal of the sanctions.

20. *The Council should continue to improve the fairness and transparency of sanctions procedures to address human rights and due process issues*, including the criteria for sufficiency and transparency of information as the basis for individual listings.

21. *Committees should refer petitions received through the Focal Point to relevant expert groups and relevant Member States for their views.* Committees should commit to positive consideration of petitions, and in cases where petitions are denied, committees should provide reasons.

22. *Committees should routinely review individual/entity designations, even in the absence of a petition, to ensure listings remain appropriate.* Such reviews should not only seek to update the narrative summary of the reasons for the listing, they should also seek an update from the relevant Member States (State of residence or incorporation, State of nationality, etc.) as to the contact, if any, that Member State has had with designated individuals/entities, and confirm that they are aware of the availability of exemptions and petitions for the removal of sanctions.

23. *The Council should encourage all sanctions committees to provide reasons for decisions taken with regard to listing, delisting, and granting or denying exemptions* to relevant Member States, national and regional courts and bodies, so as to enhance coordination between the UN and regional organizations.

24. *The Council should consider extending the mandate of the Office of the Ombudsperson to other sanctions regimes*, and consider favorably proposals by the Like Minded States to improve fair and clear procedures.

[5] UNSC Resolution 2161 (2014) facilitates requests for exemptions under the financial and travel sanctions (other than in the context of a petition to the Ombudsperson), as well as to deal with cases of mistaken identity or continuing effects of sanctions post-delisting. Extending these measures to other sanction regimes would be a significant step forward for the fairness of the overall sanction process. Access to exemptions, and recourse in case of improper imposition of measures or mistake, were important procedures which benefited affected individuals and entities, and HLR discussions recommended that these should be available across all targeted sanctions regimes.

2. Exemptions to financial/travel sanctions[6]

UN sanctions, comprehensive or targeted, have always included exemptions for humanitarian purposes, with increased standardization and more consistent application taking place over time. In the case of travel bans, exemptions are routinely authorised for medical or religious reasons, to participate in a peace process, and for judicial processes. Such exemptions are provided for ordinary or extraordinary expenses, in the case of an asset freeze. Exemption procedures include approval by sanctions committees on a case-by-case basis or by notification to the committee, with approval assumed in the absence of a negative decision within a specified time period.

Notwithstanding the long history of humanitarian exemptions, concern was expressed during HLR consultations regarding the extent to which individuals and entities subject to sanctions are aware of the availability of exemptions and the procedures for obtaining them. Simplified procedures for individuals or other actors with standing to directly request exemptions are lacking, and in most cases only governments can request exemptions. While sanctions committees have made greater efforts to inform sanctioned individuals/entities of the availability of exemptions, the requirement for individuals and entities to request exemptions through governments remains unduly limiting, and the inability of international tribunals to initiate exemption requests has already challenged the system.

Many applications by Member States for exemptions on behalf of listed individuals relate to travel to, or funding legal representation for, judicial proceedings. One HLR submission raised the question of international courts and tribunals, such as the International Criminal Court, which were generally independent of the host State authorities. In such cases, it was suggested that it is practical for the sanctions committee to deal directly with the relevant court or tribunal for individuals in custody, or who were required to travel to the host State to attend proceedings. Similarly, any information requests regarding persons in detention could be addressed by the relevant court or tribunal directly, rather than through the host state. Relevant sanctions resolutions could include a specific provision facilitating travel of listed persons which related to the fulfilment of the mandate of an international court or tribunal, as was the case in the sanctions resolution regarding the Democratic Republic of Congo (DRC).[7]

> 25. *The Council should conduct a review of all exemptions with respect to their adequacy, dissemination of information, and implementation, and standardise exemptions and procedures across regimes*, possibly through an omnibus resolution. Standing exemptions for humanitarian actors should be adopted.[8]

[6] See also section VII.D.2.

[7] Paragraph 10 of S/RES/2078 (2012).

[8] See paragraph 41 of S/RES/2182 (2014) — humanitarian exemptions in the Somalia sanctions regime as a model.

26. *Each committee should indicate available exemptions in clear and precise language on the main page of its website*, including a simple explanation based on relevant resolutions and committee guidelines concerning: who can apply, how to apply, the documentation required to substantiate a claim, where to submit the application, and the time for committee decisions on exemptions.

27. *The Council should allow requests for humanitarian exemptions, as well as communications from listed individuals/entities for all sanctions regimes.*

28. *Sanctions committees should encourage Member States to inform international law enforcement agencies when an individual is granted an exemption to a travel ban.*[9]

3. Strategic use of delisting

The Review also considered the strategic dimension of delisting. The purpose of targeted sanctions is both to constrain individuals and entities from engaging in certain conduct, but also to change behavior contrary to international norms and to deter other actors. As such, it is important that sanctions are lifted when resolution criteria are met and behavior changes, for example, abandoning military action and committing to a peaceful negotiated settlement.

There is a strong tendency in the discussion of delisting to presume that petitioners through either the Ombudsperson or the Focal Point are claiming that they have been wrongly listed: that is, that neither they nor their conduct met the resolution criteria. The idea that a petitioner's claim is instead based on reform of conduct or change in circumstances is rarely discussed, despite being specifically envisaged in relation to the Ombudsperson process (Annex II, paragraph 7 (b) of resolution 2161 (2014) provides for the Ombudsperson to request from the petitioner a signed statement in which the petitioner declares that they have no ongoing association with Al-Qaida, or any cell, affiliate, splinter group, or derivative thereof, and undertakes not to associate with Al-Qaida in the future). The delisting procedure for the Focal Point annexed to resolution 1730 (2006) is silent as to the claim of the petitioner. The level of pressure applied by the sanctions, and the level of scrutiny (and thus motivation to avoid further conduct) sensed by the subject of the sanctions, is one measure for the effectiveness of the sanctions.

29. *Committees should continually monitor (through expert groups) the conduct of individuals and entities designated under sanctions, to ensure the reasons for listing are current and that the listing remains appropriate.* Regular contact with sanctioned individuals/entities can promote greater awareness of the purpose of sanctions and encourage subjects to modify their conduct.

[9] See also section VII.D.2.

V. SUPPORTING SANCTIONS INFRASTRUCTURE

A. Sanctions committees chairs

A committee's capacity for engagement, both with stakeholder States, as well as with the broader UN Membership, is partly a factor of the committee's overall workload. This workload can vary dramatically among committees, influenced by the situation on the ground but also by the dynamics within the Council and consensus (or lack thereof) regarding the Council's response. The quality of the expert group's work and its recommendations also influence Committee workloads.

HLR consultations identified three key factors to consider when preparing a new Security Council Member for the responsibility of chairing a sanctions committee: (1) the time available between the Member's election to and commencement on the Council (bearing in mind that the Council's assignment of chairs is finalised after that Member's commencement on the Council); (2) the familiarity of the Chair's Permanent Mission with the geopolitical situation underpinning the sanctions regime administered by the committee (bearing in mind the Council's preference to assign geographically focused sanctions regimes to Members outside of the relevant region); and (3) expertise within the Permanent Mission related to the strategic, legal and technical dimensions of sanctions themselves.

Consultations also identified five sources of information and advice that are particularly valuable in preparing for the role of chairing a sanctions committee: (1) briefing by the outgoing Chair providing a unique perspective on the role of chair, political dimensions, the relationships with and between other committee members, interested Member States and, the Secretariat; (2) early briefing by the Subsidiary Organs Branch essential to understanding how the committee operates, as well as to receive broader information on UN sanctions in general; (3) early meetings with the relevant expert group to provide crucial insight into the situation on the ground; (4) dedicated briefings from other parts of the UN system related to sanctions, for example DPKO and the geographic branches of DPA; and (5) meeting with focus State of the regime, as well as key states in the relevant region, to provide an important perspective on the sanctions regime.

"Training" for incoming Council members, such as the Finnish Workshop (targeted at the senior leadership of incoming Missions) and the UNITAR Orientation Briefing (for the working level), generally provides only basic information on the Secretariat's day-to-day support to the Chairs. The *Security Council Report* workshop provided a dedicated focus on sanctions but was not sufficient preparation for the role.

During the HLR process, the Subsidiary Organs Branch indicated that it planned to introduce a phased process of induction for incoming committee chairs and their Missions which would consist of: (i) a general briefing on sanctions; followed by (ii) a specific briefing on chairing sanctions committees, including generic discussion of a committee's work programme, documentation, and managing the recommendations of expert groups once chairing responsibilities had been allocated, (iii) a one-on-one briefing for each Chairing Mission on the particular issues facing its sanctions committee(s); and lastly (iv) a mid-term follow-up briefing, three or six months into the mandate. The briefings would include input by other departments and entities relevant to the committees' work, and could also include input from the penholder of the relevant resolution, to provide a greater understanding of the mandate of the committee.

The transition ("handover") from one Chair to another was a process separate from induction. As one participant noted, inadequate handover between outgoing and incoming Committee Chairs could result in critical issues falling between the cracks, leading to delays in communicating outcomes of matters to interested States not on the Council. The consultations emphasised the importance of formalising handover procedures, including the preparation of a comprehensive handover note and a face-to-face meeting with the outgoing Chair.

30. *The Council should allocate chairing responsibilities for incoming Members at the earliest opportunity following their election, to maximise preparation time.*

31. *Member States joining the Council should include a sanctions specialist to be sanctions coordinator for the Mission.* The Security Council Affairs Division should support the sanctions coordinator network, to help coordinate work in the sanctions subsidiary bodies and work in the Council.

32. *The Subsidiary Organs Branch should organise private meetings between the outgoing and incoming chairs to discuss the Committee's work and encourage the preparation of written handover notes.*

33. *The Subsidiary Organs Branch should develop a comprehensive induction programme for incoming chairs and vice-chairs focused on management and procedural dimensions of sanctions committees.* The Branch should consult with UNITAR, the Permanent Mission of Finland and Security Council Report, to ensure sanctions elements complement the content of the Branch's induction programme. Such an induction should also clearly set out the substantive and administrative support provided by the Secretariat.

34. *A short how-to (or "dos and don'ts") guide on chairing a subsidiary body should be commissioned* as a reference for incoming members of the Council, drawing heavily on the experiences of committee members and former chairs of sanctions regimes.

35. *More in-depth training on specific sanctions regimes and the working methods of sanctions committees should be conducted for incoming, working-level delegates who support the chairs, as well as for those sitting on specific sanctions committees.* Training should include orientation on how the overall sanctions machinery fits into the UN system. Similar training should be provided, where possible, to new delegates from any member of the Council when they arrive at UN Headquarters.

B. Expert Groups

As the Security Council's "eyes and ears on the ground", expert groups operate in challenging security and political environments. Their operational challenges are compounded by time-bound mandates, which compel experts to report to the

Council at fixed times, irrespective of the stage of their investigations or security developments on which they are reporting. As is common with many UN institutions, the resources dedicated for their use are insufficient to meet the demands of their mandate.

The contribution of expert groups to the effectiveness of Security Council sanctions depends upon the personal and professional qualities of the experts themselves. They must be genuinely expert in the field to which they were appointed, but they must also have the personal strength to endure the rigours of fieldwork in often dangerous environments and to maintain their independence and impartiality in the face of political pressure. Attracting, selecting, and retaining the best experts, in an accountable and transparent manner, are therefore critical for their credibility and their effectiveness. But the expert groups must also be provided operational support by the UN system commensurate with their role as independent experts for the Security Council.

1. Administrative arrangements, appointment, and evaluation

A clear tension exists between the role and character of expert groups, as envisaged in Security Council resolutions, and the contractual and administrative arrangements under which they operate. Expert groups are independent but act on behalf of the Security Council and sanctions committees, thus sitting both inside and outside the system. This tension permeates all aspects of expert groups, from the manner of their appointment, the nature of their contracts, their relationship with the Secretariat, the conditions under which they operate in the field, to the evaluation of their performance. It is further amplified by the personal risk to which some experts are exposed in fieldwork. During the Review, the question arose as to whether the cascading consequences of these arrangements undermine the effectiveness of expert groups and, consequently the Council's capacity to monitor the impact and implementation of its sanctions regimes.

Some expert group members were concerned that the Secretariat's role in selection and performance evaluation of experts undermined their independence and eroded the directional relationship between committees and their expert groups. Under current practice, the Secretariat manages the selection process, with committees having little role other than to object to selections by the Secretariat before the appointment is finalised. These experts acknowledged that reforms of the selection process were a positive step towards professionalising expert selection, but remained concerned that the selection panels were not qualified to evaluate the expertise of the candidates, and that the selection criteria, drafted by the Secretariat without input from committees, resulted in the Secretariat, rather than the committee determining the character of the expert group.

Member States who shared views with the HLR were more concerned to ensure that the appointment was made on the basis of expertise and merit, that the process delivered a consistent standard of expertise across all expert groups, and ensured no conflict of interest on the part of the appointee. Whereas experts wanted the committees to play a greater role in selecting the experts, some Member States were concerned that the Permanent Members of the Council already had too much influence over the selection process.

36. *The Secretary-General should ensure that appointments of experts are made on the basis of expertise and merit, to deliver a consistent standard of expertise across all expert groups, free of conflict of interests.*

37. *The Council should request the Secretary-General to review present arrangements and recommend options for the establishment of a sustainable system for appointing and supporting Security Council mandated experts.* The conditions of service should facilitate the performance of their functions, attract and retain the very best professionals for this role, as well as be supported with timely and high-quality administrative and logistical support.

38. *DPA, OHRM, and representatives of expert groups should consult on terms and conditions that are reflective of their important specialised role.*

39. *The Security Council should request that the Secretary-General ensure that expert groups receive the necessary administrative and substantive support* to effectively, safely, and in a timely manner, fulfil their mandates, including with regard to duty of care in high-risk environments.

40. *The Security Council should request an improved performance assessment system for expert groups* to include both an assessment of expert groups, and an assessment of the UN's administrative and logistical support to expert groups, based on structured feedback from experts themselves.

Contract, physical security and risk

The Review also discussed whether the current contractual arrangements for members of the expert groups were appropriate. Expert groups are engaged under the general contract for consultants within the UN. The Office of Human Resources Management (OHRM) has adapted the terms and conditions of the contract, in consultation with members of the Security Council, but the Review heard that the resulting conditions did not accommodate the unique functions of the experts and were thus impacting their effectiveness. Some experts contended that the contract terms and conditions negatively impact the ability of the UN to attract highly qualified experts in what are very competitive fields; the Secretariat indicated that this was not its experience, with all expert positions (numbering over 70) currently filled.[10]

The Secretariat offers individual experts one-year contracts, largely corresponding to the mandate cycle given by the Security Council to the relevant Expert Group.

[10] According to one submission, "[e]xperts are sent to some of the most dangerous and difficult locations in the world for their work [and yet t]heir conditions of travel are the worst of anyone engaged by the United Nations." Arrangements for experts do not provide for diplomatic status, the issuance of laissez-passer, business-class travel, or medical cover. It did guarantee evacuation assistance, but on a cost-recovery basis. Furthermore, "[t]he contract removes the freedom to manage time and work as needed to deliver on the mandate" and provides no relocation compensation where the position requires work at a particular duty station. In relation to travel, another submission noted the paradox that UN staff travelling with expert groups in the field enjoyed better conditions than the experts they were supporting.

Requiring a re-interview for renewal of the contract for a further year facilitates review of individual experts' performances (enabling removal of under-performing experts), but some experts see the procedure as compromising both the independence and effectiveness of expert groups.

Expert Group members consulted by the Review drew particular attention to the physical threats to which their functions exposed them. Depending upon the nature of the group's investigation, the threat could extend beyond dangers inherent in field work in conflict zones to include direct personal threat from the individuals or entities being investigated (for example, terrorist organisations). These experts contended that fieldwork should be conducted with proper duty of care from the United Nations, with effective duty of care policies in place, whereas much of the risk was borne by individual experts, which placed them in a precarious position.

Secretariat support

The Review also heard concerns from some experts that the level of technical and administrative support provided by the Secretariat to expert groups was undermining both the effectiveness and independence of the expert groups. Comments suggested that UN staff assigned to expert groups lacked specific research expertise requested, were a shared rather than dedicated resource, and due to the UN's mobility policy, could be reassigned to the detriment of institutional memory. Some experts were also concerned that the expert groups had no formal way to provide input to the performance evaluation of the UN staff assigned to them, whereas they understood those UN staff provided feedback on the experts' performance to the Secretariat. In these experts' view, this complicated the working relationship between the expert groups and Secretariat staff.

Experts also expressed concern at their lack of control over budgetary resources for their activities, making them dependent on the Secretariat for decisions on access to resources and for arrangements for travel. One expert reported a situation where the Secretariat (without consulting the relevant committee) withheld funding for the expert group's participation in a seminar. In the view of the expert concerned, this amounted to the Secretariat's directing the activities of the expert group, despite this being the prerogative under the relevant Security Council resolutions of the sanctions committee.

2. Operational support

Comments during HLR consultations called for the Secretariat to introduce a standardised induction process for newly appointed experts, taking into account the different professional backgrounds and fields of expertise of the experts. The induction should clarify the roles and responsibilities of the experts, with a particular focus on what it means to be "independent", explain the differences in the various sanctions regimes, the investigative resources available and the procedural requirements and expectations. The induction process should also more thoroughly explain the terms and conditions of experts' contracts.

Experts also emphasised the critical importance of a formal hand-over between an incoming expert and his or her immediate predecessor. Outgoing experts are currently required to prepare end-of-contract reports and the Secretariat maintains an archive of their material for the use of their successors, but experts stressed the value of a face-to-face meeting to place this material in context, as well as ongoing

contact with their predecessors to consult on cases and other work of the group. Continuity was also provided by the accumulated institutional and technical knowledge of the longer-serving UN support staff.

Recognising the value of regular contact with their counterparts in other groups, experts welcomed the initiative of the Subsidiary Organs Branch to convene annual thematic meetings of experts. Such contact was often operationally necessary, given the interconnection between the security crises underpinning regionally contiguous sanctions regimes. It also offered the opportunity to share operational experience, investigative methodology, tactics, and new developments in their areas of expertise and peer review work and to canvas recommendations related to sanctions implementation that are applicable to multiple sanctions regimes. In addition to allowing for exchange of best practices and lessons learned among experts, greater cooperation would also support a more consistent approach to implementation across sanctions regimes.

The Review heard that expert groups lacked a sophisticated system for knowledge and case management, and were generally not eligible to receive confidential UN information, such as UN political reporting (code cables) or the DSS feed on the relevant country, despite all experts having signed a confidentiality agreement. Some experts suggested that their access to commercially available information databases was also limited, either due to limited UN licences for such databases, or the reluctance of the Secretariat to subscribe. The Secretariat, on the other hand, reported that subscriptions to such databases were under-utilised, indicating a breakdown in communication between Expert Groups and the Secretariat.

41. *The Secretary-General should authorise upon request access by expert groups to UN system reporting on relevant situations*, including code cables and the DSS feed, on the condition that such information would only be used for background understanding and would not be cited in public reports without the consent of the originators.

C. The Ombudsperson

The contractual, administrative and staffing arrangements for the Ombudsperson are not adequate to the institutional importance and need for independence of the Ombudsperson. Concerns with respect to the impact of contractual and administrative arrangements are outlined in the Ombudsperson biannual reports to the Security Council.[11]

[11] See 2 February 2015 (S/2015/80, paras. 52-53) and 31 July 2014 (S/2014/553, paras. 50-51): "While achieved in practice, in principle, no separate office has been established and the applicable administrative arrangements, particularly for budget, staffing, staff management and resource utilization, lack the critical features of autonomy. Further, the contractual arrangements for the Ombudsperson are not consistent with the mandate accorded by the Security Council and contain insufficient safeguards for independence .... urgent consideration needs to be given to establishing contractual arrangements and a structure that provides for institutional independence for the Ombudsperson and the Office of the Ombudsperson.

The Ombudsperson is subject to the same contractual terms and conditions as individual members of expert groups, despite significant differences between the Ombudsperson's role relative to expert groups. Unlike experts, the Ombudsperson is not under the direction of the committee; in fact, the Ombudsperson's independence from the committee and the Council is one of the key determinants of the Office's legitimacy. The term and security of the Ombudsperson's tenure is also vital to the position's independence, an issue noted by the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism.

42. *The Council should ensure that the term of appointment for the Ombudsperson matches the period of the mandate renewal for the Office of the Ombudsperson.*

43. *All actors should respect the independence of the Ombudsperson, and decisions on appointment or renewal of the Ombudsperson should be a matter for the Secretary-General alone, without input by the committee or Security Council.*

44. *The Secretary-General, in reviewing arrangements for appointing and supporting Security Council mandated experts, should propose options for ensuring that the administrative, contract and other support arrangements for the Ombudsperson are specific to the distinct role and include institutional protections to actually meet the definition of an "independent office".*

D. The Secretariat

During HLR consultations, concerns were expressed about a policy vacuum on sanctions within the Secretariat, with the consequence being no doctrinal or policy basis as to how sanctions and field missions should collaborate on sanctions-related issues. The Secretariat needs to establish a policy framework for interagency cooperation and coordination on sanctions, recognising the multi-dimensional nature of sanctions.

The IAWG inputs to the Review concurred on the need for clear and coherent UN policy guidance on the interaction and support between UN entities and Security Council sanctions. Operational guidance and standardised procedures for information-sharing and collaboration with different actors is necessary, as well as greater awareness through an ongoing dialogue with senior management both at Headquarters and in the field regarding the nature and scope of UN sanctions and the way in which sanctions interact with the work of the various UN entities. To promote cooperation within the UN system, regularised briefings, training, sharing of expertise in Headquarters and the field, and guidance on sanctions issues, in

particular regarding the sharing of sensitive and confidential information, would be helpful.[12]

The Secretariat has now formalised the IAWG as a forum to strengthen interaction with and support for UN sanctions regimes. The IAWG has developed a shared Terms of Reference and Programme of Work, including briefings, training and sharing of expertise to enhance UN system-wide understanding of sanctions issues.

45. *The UN Secretariat should develop a clear and coherent system-wide policy on its interaction with UN Security Council sanctions*, including operational guidance detailing how different UN entities may (or may not) interact with the sanctions machinery.

46. *DPA should raise awareness among national governments and provide policy guidance for UN missions and agencies in the field regarding the objectives, nature and scope of UN sanctions.*

47. *SCAD should establish a capacity to capture best practices, draw substantive connections between existing sanctions regimes and expert group reports, identify and mobilise UN system expertise, and maintain and develop new guidance on sanctions implementation issues.* Such a capacity could be modeled on existing DPKO best practices guidance and policy planning units.

E. The Secretary-General

The Secretary-General has a central role in giving prominence and exercising leadership for the system-wide implementation of UN sanctions. The Security Council may wish to consider a triennial review of all UN sanctions with the aim of enhancing their effective implementation. Such a review could be undertaken on the basis of a report by the Secretary-General which would provide information on key sanctions trends, assess implementation issues, analyse linkages between Security Council sanctions regimes and other Council-mandated activities, and consider the impact of sanctions measures on human rights, due process as well as on humanitarian work. The Secretary-General could also include a substantive section on UN sanctions and implementation issues in his regular reports to the Security Council.

[12] See the Canadian-funded report on "Integrating UN Sanctions for Peace and Security" (2010) which was followed by the first comprehensive UN system-wide training on enhancing the effectiveness of UN sanctions in 2012-2013 by CCSI, also funded by Canada and endorsed by the former Under-Secretary-General for the Department of Political Affairs, B. Lynn Pascoe, with several hundred participants from Member States, the UN Secretariat and Agencies, the media, and civil society.

48. *The Secretary-General should provide a report on key sanctions trends, implementation issues, linkages between Security Council sanctions regimes and other Council-mandated activities*, including the intended and unintended impact of sanctions measures on human rights, due process, and on humanitarian work.

49. On the basis of the Secretary-General's report, *the Security Council should require a regular review of all UN sanctions with the aim of enhancing their effective implementation or terminating sanction regimes*.

50. The Security Council should request *the Secretary-General, where applicable and feasible, to include a substantive section on UN sanctions issues in his reports to the Security Council*.

VI. INTEGRATING SANCTIONS WITH OTHER UN RESPONSES

Strategic consideration of the role of sanctions and when to integrate them into other UN activities — or to keep them separate — requires UN system-wide coordination. A recurrent theme in HLR discussions concerned silos between sanctions and other UN responses to the same crisis, both at Headquarters and in the field. Integrating sanctions with other UN responses is essential to capturing synergies, preventing conflicting actions and enhancing the overall effectiveness of UN collective security.

One participant recalled the idea of a UN system-wide sanctions coordinator, proposed by the High Level Panel on Threats, Challenges and Change in 2004,[13] with a view to improving the integration of the sanctions instrument with other approaches to conflict. The Review also considered the UN's Sahel Strategy as a model to ensure strategic coordination between multiple strands of a UN response to a particular crisis.

51. *The Secretary-General's report submitted prior to the potential imposition of sanctions should address the strategic connection between sanctions and other instruments employed*, and demonstrate the place of sanctions as part of a broader partnership between the State in crisis and the various UN actors seeking to restore international peace and security.

52. *The reports of the Secretary-General should include an assessment of the likely requirements for technical assistance to implement the sanctions measures*.

[13] A More Secure World: Our Shared Responsibility, Report of the Secretary-General's High-level Panel on Threats, Challenges and Change (2004), http://www.un.org/en/events/pastevents/a_more_secure_world.shtml.

A. Peacekeeping Operations, Special Political Missions and the Secretary-General's Special Representatives

In situations where the Council has applied sanctions to a State in which it has also deployed a field mission (peacekeeping operation or a special political mission), the Council requires field missions to cooperate in the implementation of the sanctions. Field missions are generally mandated to assist, within their capabilities, committees and expert groups by supplying relevant information. Peacekeeping operations, where relevant, may also be mandated to monitor implementation of arms embargoes, including through inspections of weapons, ammunition and related materiel regardless of location (cf. MINUSCA, MONUSCO, UNOCI).

The Secretariat's IAWG addressed interactions between field missions and sanctions actors in the field. Overall, a good understanding of the sanctions regime, its scope and the ways in which the mission could assist in furthering compliance existed; similarly, consultations with expert groups suggested that field missions provided vital logistical support for expert groups' activities and that collaboration on implementation assessments and investigations generally occurred.

In some cases, however, field missions were either unaware of the role of expert groups or the mission's mandate to cooperate with them, or were unwilling to assist expert groups out of concern for the potential negative consequences for the mission, particularly its relationship with the host government, if it were associated with UN sanctions. Other HLR participants noted a lack of harmony between the functions of a peacekeeping mission and Council-mandated sanctions, with rules for such missions determined by the C-34 Special Committee on Peacekeeping Operations, reflecting the desire of troop and police contributing countries not to be involved in sanctions implementation. The sanctions function was thus viewed as "stand-alone" rather than integral to the overall UN mission.

Recommendations were advanced to address such issues by including sanctions functions in pre-deployment training for new staff or with the advent of a new sanctions regime. The IAWG noted that, despite several peacekeeping missions having mandated arms embargo inspection or sanctions monitoring tasks, there was little work being done to extract best practices from the experience of monitoring units in peacekeeping missions. Such lessons could be valuable, for example, in devising a common template for recording of data on arms and ammunition that could be shared among missions and expert groups, and for peacekeeping missions periodically briefing sanctions committees on their sanctions monitoring mandates. Collaboration between field missions and expert groups, thus, could be mutually beneficial. Early access to expert group reports would allow UN field missions both to provide input, as well as to feed the report's observations and conclusions into planning decisions, including managing information that could affect the operating environment for the missions. Field missions called for formalising communication with a designated contact point at Headquarters on sanctions-related issues.

The Review also considered the role of the Special Representatives of the Secretary General (SRSG) who lead UN field missions and coordinate activities in the relevant State. Participants indicated that a relationship between SRSGs and the sanctions system was required for field missions to properly support the implementation of sanctions. When SRSGs are engaged, it made a significant difference to the effectiveness of the sanctions. Some SRSGs, however, resisted engaging on sanctions

because they thought it would interfere with their broader mandate even though examples were discussed where the relevant sanctions committee and expert group maintained good relationships with both the government of the subject State, as well as the local UN field mission and Special Representative of the Secretary-General (SRSG).

53. *DPA should undertake assessment missions prior to a new sanctions regime, as and when possible.*

54. *Field missions should include a substantive section on sanctions in their regular reports, where applicable and feasible.*

55. *DPA and DPKO should undertake a study on sanctions monitoring performed by peacekeeping missions with the aim of extracting best practices.*

56. *The Security Council should ensure that mandates of SRSGs, as heads of UN missions in countries to which sanctions apply, include the requirement to assist with sanctions.*

57. *The Security Council and DPKO should consider establishing sanctions monitoring units in appropriate UN missions and operations* (similar to the integrated embargo unit within the UN Operation in Côte d'Ivoire).

B. Mediation

As stressed in the *United Nations Guidance for Effective Mediation* (A/66/811), effective mediation requires a mediator to be impartial and maintain the consent of the parties. Mediation should also be inclusive, as inclusive processes are more likely to identify and address the root causes of conflict and reduce the likelihood of excluded actors undermining the process.

When mediation is conducted in parallel with Security Council sanctions, the primary goal of UN engagement may need to be clarified. Sanctions can affect the manner in which some parties to the conflict interact with the mediation process. Mediators, therefore, need to be clear about the role and purposes of sanctions and to be able to explain the conditions under which delisting, easing, or lifting of sanctions may occur. Mediation efforts may be negatively impacted when delisting is linked with a party's cooperation and does not materialise, or when the delisting period is protracted. Exemptions permitting listed individuals to travel internationally to participate in mediated processes are important.

The group affiliation of parties to a conflict is sometimes very fluid, particularly when armed actors control large parts of territory. Cases where parties may be listed for individual targeted sanctions and also be part of a group engaged in finding a political solution requires greater flexibility that takes into account the particulars of mediation.

58. *The Secretariat should improve coordination and information-sharing within the UN system, including among SRSGs and mediators on the role and multiple goals of sanctions*, including the benefits of sanctions used as an incentive or disincentive in negotiations.

59. *The Security Council should ensure that exemptions permitting individuals to travel for participation in mediation processes are available in relevant sanctions regimes.*[14]

C. Human Rights and Protection Agencies

The growing number of sanctions regimes that include human rights abuses as grounds to designate an individual or entity subject to travel or financial sanctions has resulted in a productive and growing relationship between the sanctions system and Council-mandated human rights actors. HLR consultations indicated that UN human rights and protection agencies generally desired deeper cooperation with sanctions actors as a means of better achieving their own mandates with respect to reporting on international humanitarian law and international human rights violations. Human rights and protection agencies explore all tools available for preventing proscribed acts or for heightening accountability for perpetrators of human rights violations. Sanctions are such a tool, and thus agencies generally shared information with and otherwise supported sanctions committees and their expert groups. They did, however, desire feedback on the use of such information.

The Offices of the Special Representative for Children and Armed Conflict (CAAC) and the Special Representative for Sexual Violence in Conflict conduct systematic briefings to sanctions committees on their respective areas of expertise, which include proposing names of individuals and entities for possible sanctions designation. Such briefings have been welcomed by the sanctions committees. In addition, a range of human rights and protection agencies have offered their own rosters and contacts for enlarging the pool of expertise available for expert groups. For example, UN Women, in partnership with Justice Rapid Response, has a roster of experts trained on the investigation of sexual and gender-based violence (SGBV) as international crimes (JRR-UN Women SGBV Justice Experts Roster).

The relationship highlighted the importance of harmonised information collection and sharing across the two mandates, to allow such information to be used for trend analysis, but also highlighted the need for clarification of the "ownership" of information and how it is used. UN human rights and protection entities were also concerned that due process be observed and that the welfare of witnesses, victims, and interviewers be protected throughout the process of investigating and reporting on potential designees.

To that end, both expert groups and the human rights and protection entities need a mutual understanding of Monitoring and Response Mechanisms (MRM). A MRM stipulates the type of information that can and cannot be disclosed from case files. This would ensure information was neither sought, nor provided, that violated these

[14] See section IV.B.2 regarding exemptions.

principles. For example, expert groups were given summary information from a UNICEF database supporting the SRSG CAAC that allowed sufficient information to corroborate allegations of violations but without revealing the identity of witnesses or victims. The relationship contributed to bringing names of the perpetrators of human rights abuses for sanctions consideration and briefing relevant sanctions committees.

60. *The Secretariat should sensitise expert groups on the role of human rights and humanitarian actors*, and sensitise human rights and humanitarian leadership and actors in the field regarding the role of sanctions, especially in addressing misconceptions concerning the objectives and purposes of sanctions.

61. *The Secretariat should establish information-sharing arrangements with expert groups*, specifying the type of information and with whom it might be shared, and how the information might be used.

62. *DPA should serve as the conduit or Headquarters focal point through which sensitive information can be shared with expert groups*. Expert groups seeking information from a particular humanitarian entity should first approach the entity's office through UN Headquarters and not through the field in the first instance.

63. *Human rights actors, humanitarian organizations, and expert groups should enhance dialogue among themselves on an informal and confidential basis*. The status and publicity for such arrangements would depend upon the agency concerned.

D. Humanitarian action[15]

HLR working groups considered concerns expressed regarding the adverse impact the association of sanctions could have on humanitarian actors. Financial sanctions in a particular area, for example, were reported to have a chilling effect on the ability to raise funds for humanitarian assistance in the region. The "naming and shaming" character of targeted sanctions was also discussed in relation to the ability of humanitarian actors to negotiate access to territories held by persons or entities on sanctions lists, because the humanitarian actors were (mistakenly) seen as agents of the sanctions process (a possible source of names for sanctioning, for example).

The Secretariat's IAWG highlighted the need to increase the engagement of senior managers at Headquarters and in the field and to raise awareness, through regular briefings on the basics of UN sanctions, including how they interact with other UN activities. DPA's role as the sanctions focal point should also be more widely disseminated, so that UN entities in Headquarters and the field know where to turn for information and support on sanctions issues. Humanitarian and human rights organizations could also systematically assist DPA with impact assessments of UN sanctions.

[15] See also sections IV.B.2, VII.C.3, and IX.A.

The mandates of sanctions monitoring and humanitarian actors are mutually reinforcing notwithstanding potential areas of tension that may complicate cooperation. Poor understanding of the objectives of sanctions may impede cooperation among sanctions monitoring and humanitarian actors. For their part, expert groups, too, may lack understanding of the fundamental principles defining and governing humanitarian action, and may not always make a clear distinction between humanitarian actors and other actors, such as peacekeeping operations, special political missions, or human rights actors.

Humanitarian actors carrying out their mandates on the ground sometimes feel constrained by the application of sanctions to the territory in which they are operating. When the scope of the sanctions is not well understood, humanitarian actors may "over-comply" with the measures, thereby unnecessarily impeding delivery of humanitarian supplies. Similarly, the requirements States impose on humanitarian actors as part of national implementation of sanctions may create difficulties both with respect to perceived neutrality of the humanitarian actors and in their efforts to obtain necessary funds to carry out their activities. Standard exemptions for humanitarian actors and their implementing partners would facilitate their work in conflict areas where sanctions are applied to resolve conflicts. Humanitarian actors should continue improving their own measures to prevent the diversion of aid.

Humanitarian actors consulted during the Review also reported experiencing difficulties either raising funds for, or transferring funds to, certain countries subject to UN sanctions. They perceive certain operational difficulties associated with sanctions to be an impediment to their ability to engage with entities in the field. Some noted confusion about whether the sanctions prevent them from engaging with such entities, or the degree to which unintended diversion of funds or material aid to such entities would place them in breach of the sanctions. They also expressed concern about how such entities may associate humanitarian actors with the sanctions, thus restricting humanitarian actors access to communities in need or even placing the humanitarian actors in physical jeopardy.

The degree to which the difficulties noted by humanitarian actors can be attributed directly to UN sanctions, as opposed to other causes, is unclear. In all circumstances to which UN sanctions apply, the US and the European Union also apply their own autonomous measures that are significantly broader in scope than the UN sanctions, and are likely to affect humanitarian actors. There is a need to clarify requirements for such actors as also discussed in section VI.D, and to understand better the potential impact of sanctions on important humanitarian activities.

64. *The Council should include in the mandates of expert groups assessment requirements and reporting of impacts of sanctions on humanitarian activities.*

65. *Expert groups and humanitarian experts should increase dialogue between them*, including on potential impacts of sanctions on humanitarian activities such as the effects of national implementation of financial sanctions. To the extent possible, *expert groups should consult humanitarian organizations regarding pre-assessments of the impacts of sanctions on the ground.*

66. *Regular, standardised, evidence-based assessments should be conducted to consider the extent to which proposed measures may impact humanitarian initiatives.* If concerns exist that sanctions could impact humanitarian action, the Council should consider standing exemptions for UN humanitarian actors and implementing partners in that situation.

67. *The Security Council and sanctions committees should utilise standardised terms and guidelines* to reduce uncertainty and the potential for over-compliance of UN sanctions.

VII. UN SANCTIONS AND RELATED INSTITUTIONS AND INSTRUMENTS

Numerous international organizations, instruments, and initiatives deal with many of the same threats that are addressed by UN sanctions. The growing frequency with which other instruments are employed, including regulatory frameworks other than sanctions and referrals to international judicial processes, raise issues of coordination and complementarity. The application of sanctions by entities other than the UN, including regional organizations as well as individual countries, presents complex political issues.

HLR consultations revealed a broad range of institutions and mechanisms that are not part of the UN sanctions system but nonetheless play or could play important roles in implementing UN sanctions. Specific institutional mandates may not formally refer to or require cooperation with UN sanctions, but such organizations provide tools that can be complementary or even essential for effective sanctions implementation. Enhanced cooperation and information-sharing with these organizations and arrangements can help to leverage all relevant expertise and resources to promote a more integrated approach to UN sanctions.

Cooperation and coordination on UN sanctions issues goes beyond Member States and regional organizations to include a broad range of international organizations and mechanisms, but also apply to national regulatory actors as well as the private sector. The Review focused on three categories of functional issues specifically mentioned in the mandate of Working Group II: international arms control, non-proliferation and export controls; financial controls; and international criminal justice.[16] These subfields are therefore addressed separately in this section.

A. General issues of cooperation with external institutions and arrangements

The range of external institutions with relevance for UN sanctions is broad, and the degree of engagement with the UN and its sanctions varies considerably. INTERPOL, the world's largest international police organization, enabling police from 190 member

[16] Other categories which were not specifically addressed by Working Group II include transport actors (WCO, ICAO, IATA) and natural resources actors (Kimberley Process, EITI, OECD). Regional actors (AU, ICGLR, ECOWAS etc.) were considered by Working Group II.

countries to work together operationally, has an overarching cooperation agreement with the UN and has signed agreements relevant for the issuance of Special Notices with ten of the sixteen sanctions committees. To mention but a few examples: INTERPOL's databases are useful in identifying and tracing arms and its special notices facilitate implementation of travel bans and asset freezes. Similarly, agreements or memoranda of understanding exist between UN bodies and Eurocontrol, the air flight center whose coverage goes well beyond Europe. Other organizations with very specific mandates which may seem to touch on issues relevant to sanctions, such as the International Atomic Energy Agency (IAEA), have little general involvement with and have neither participated in discussions of UN sanctions, nor established significant formal ties in that particular field, unless specifically tasked by the UNSC.[17] As HLR consultations found, there is no systematic way currently to review either existing agreements or assess which institutions might contribute, or contribute more systematically, to sanctions implementation. A better understanding is needed of potential sanctions partners.

1. General cooperation with external institutions

Synergies should be explored with relevant international organizations in building the necessary expertise and information within and among UN entities for the effective implementation and enforcement of sanctions. Opportunities for cooperation among UN sanctions actors and related international organizations and arrangements through strategic partnerships and specific technical arrangements should be enhanced.

The mapping exercise should include relevant export control regimes so as to draw on their recognised competence concerning weapons of mass destruction and conventional weapons.[18] It should further include UN Specialised Agencies such as the International Civil Aviation Organization (ICAO), the International Maritime Organization (IMO) and the International Atomic Energy Agency (IAEA); and the World Customs Organization and the International Criminal Court (ICC), as well as the OECD (on its Guidelines on Due Diligence), the Kimberley Process and the FATF (on financial restrictive measures) among others.

68. *DPA should commission a comprehensive assessment or "mapping exercise" of related organizations with particular relevance for UN sanctions* to examine ways to facilitate cooperation on sanctions-related issues, and develop strategic partnerships or technical arrangements, or intensify existing ones, to provide assistance in sanctions implementation.

[17] The IAEA informs the UN of its activities and submits reports covering its activities to the General Assembly and, when appropriate, to the Security Council. The IAEA cooperates with the Security Council by furnishing to it, at its request, such information and assistance as may be required by the Security Council in the exercise of its responsibility for the maintenance or restoration of international peace and security.

[18] These include the Nuclear Suppliers Group (NSG), Missile Technology Control Regime (MTCR), Australia Group (AG) and the Wassenaar Arrangement (WA). In addition, the Zangger Committee (or Nuclear Exporters Committee) and the Hague Code of Conduct against Ballistic Missile Proliferation (HCOC) also have relevant expertise.

2. Information-sharing between UN and related organizations and institutions

Topical and organizational silos impede effective understanding, cooperation, and implementation of sanctions. The creation of the IAWG to provide input into the HLR was an important step towards promoting better understanding of and coordination on sanctions-related issues within the Secretariat, as discussed previously. The proposed Standing Technical Committee on sanctions to discuss implementation issues and capacity building needs across individual sanctions regimes, as discussed in Section II B, would also promote greater information-sharing. Beyond the UN and New York, stovepipes constituting obstacles to interaction between sanctions implementation actors and entities with pertinent mandates and expertise relevant for effective sanctions implementation also need to be broken down.

69. *DPA should consider establishing contact points and coordination mechanisms with relevant organizations to promote greater information exchange and awareness-raising.*

70. *The Security Council should initiate and conduct cross-regime thematic discussions with a broad range of actors on sanctions issues.*

3. Interaction and communication at all levels of the sanctions implementation chain

Effective implementation of UN sanctions requires understanding and cooperation of relevant actors at all levels — within the UN system, with related international organizations, among regional organizations and Member States, national officials, and with the private sector. Regular interaction between those designing UN sanctions and those responsible for carrying out the measures at the national level — regulatory authorities and the private sector – is particularly important and should be encouraged. The UN should improve outreach to and accessibility by Member States, regional organizations, and the private sector.

71. *DPA and sanctions committees should organise periodic meetings of officials responsible for sanctions at the UN, regional, and national levels to discuss issues of implementation.*

72. *DPA, sanctions committees, and expert groups should invigorate outreach and dialogue with the private sector* (modelled on the "Wiesbaden Process"[19]) particularly with concerned industry sectors to better understand implementation challenges.

73. *DPA, sanctions committees, and expert groups should involve civil society* (e.g., academia, non-governmental organizations (NGOs)) *to facilitate cross-cutting engagement, raise awareness, and promote greater understanding of sanctions.*

[19] The Wiesbaden process is an annual meeting hosted by the German Government of private sector, government, and UN representatives to engage industry to promote international efforts to prevent the proliferation of weapons of mass destruction and their means of delivery to non-state actors.

4. Standardised definitions of commonly used terms

Throughout HLR consultations, the need for greater clarity and consistency of terminology and expression of sanctions obligations was heard. Both in sanctions resolutions and sanctions committees' guidance, precision is necessary for actors implementing UN sanctions at the national level, in particular, national regulatory agencies and economic operators such as financial institutions and exporting companies. Because the Security Council is by nature political, resolutions often contain ambiguous terms that reflect compromise or use slightly different terms to denote the same concepts. Terms may also evolve over time and be applied differently in individual sanctions regimes. The resulting lack in clarity leads to uneven implementation and confusion, and should be avoided to the greatest extent possible.

In particular, generally used terms such as "arms and related materiel" found in arms embargo resolutions should be defined. The term is generally understood to encompass all types of weapons, components, spare parts, ammunition/munitions, as well as weapons accessories.[20]

To assist those responsible for implementation, national regulatory agencies and the private sector, standardization should as far as possible be consistent with the definitions contained in existing legally binding international instruments or the use of terms developed in organizations specifically working in similar fields.

74. *DPA, sanctions committees, and expert groups should develop standardised definitions and guidelines of terms used in connection with financial measures*. Those benefiting from clarification include financial assets, economic resources, prohibited financial assistance in relation to export, import and transport bans, exercising vigilance, and those related to commodity bans. In the case of asset freezes, the Transnational Organised Crime Convention, Corruption Convention and Terrorism Financing Convention should be taken into account, as well as FATF's guidelines.

75. *DPA, sanctions committees, and expert groups should develop and use clear standard definitions and baselines in UNSCRs* for terms such as "arms and related material" and "transfer", taking into account definitions contained in existing instruments and technical work done in arrangements such as the Wassenaar Arrangement.

76. Where necessary, *DPA, sanctions committees and expert groups should endeavour to clarify partially-defined terms contained in certain sanctions resolutions*, such as of what constitutes luxury items and "exercising vigilance".

5. Sanctions implementation information and guidance

An issue of significant importance for those implementing sanctions at the national level — national regulatory agencies and private economic actors — that was

[20] The phrase is much broader in scope than arms as defined in the Arms Trade Treaty (ATT) or the Firearms Protocol. Although arms embargoes are often construed to include only conventional arms, this term also comprises weapons of mass destruction.

repeatedly mentioned in consultations concerned the need for improved UN sanctions implementation information and guidance. Discussion and recommendations concerning implementation guidance is addressed in section II. B.

B. UN sanctions and arms/non-proliferation/export control arrangements

The imposition and implementation of restrictive measures in the arms and non-proliferation fields present particular challenges because of technical complexities and political sensitivities. The requisite expertise can be found both inside and outside the UN, depending on the subject matter. Sanctions coexist with international organizations and other regulatory instruments, including export control arrangements, which may or may not be global in scope or coverage. These existing frameworks require the establishment of regulatory agencies and control systems at the national level, but they do not necessarily encompass specific UN restrictive measures. National regulatory agencies and private sector actors must comply with existing regulatory frameworks, as well as with specific restrictive measures required by relevant sanctions regimes.

Consultations indicated that formal reliance on implementation guidance developed outside UN settings, particularly in fora with restricted membership such as the FATF or export control regimes, would be sensitive. It was recognised, however, that the UN should, and in fact at times does, seek knowledge and inspiration from work done elsewhere so as to obtain the requisite and up-to-date expertise.

Participants also noted that definitional and methodological work in one area could benefit implementation efforts in another, which should prompt synergies to the extent possible. The degree to which non-UN organizations and arrangements could meet demands for interaction with the UNSC and its bodies and the Secretariat would of course ultimately depend on governing bodies' approval.

Some definitional issues relevant for this cluster of items are dealt with above in section VII.A.4. This section outlines recommendations derived from more specific issues.

1. Cooperation between UN sanctions and relevant arms/export control regimes and cross-cutting treatment of subject-matter

Rather than being confined to particular sanctions regimes and restrictive measures, sanctions implementation efforts should increasingly be crosscutting. Export control and other arms-related regimes have developed field-tested practices, definitions, and mechanisms that could enhance UN sanctions implementation in relevant fields. Mutually advantageous cooperation should be sought, building on the model established by the 1540 Committee.

> 77. *DPA should enhance dialogue on implementation through discussion of functional clusters of issues* (e.g. on arms embargos, non-proliferation) which should also be cross-cutting among organizations.

78. *The Security Council should encourage cooperation between UN sanctions actors and non-proliferation and arms control entities*. Member States should encourage, and as necessary authorise, governing bodies of arms and export control supplier regimes to discuss sanctions-related issues with relevant UN bodies.

2. Control lists and catch-all provisions

Commodity lists from export control arrangements are often copied or referenced in UN resolutions. While the NSG, MTCR and Australia Group regularly update their control lists, these updates are not always incorporated into UN resolutions and guidelines in a timely fashion, or indeed at all.

Furthermore, the use of "catch-all" provisions in UN resolutions or expanded lists of dual-use products can assist in achieving the objectives of sanctions regimes but presents implementation challenges.

79. *Relevant sanctions committees should routinely update sanctions commodity lists* (via decisions or resolutions and reflected in guidelines) in a timely manner and make them available on the UN website.

80. *The Security Council should strengthen catch-all provisions in resolutions by clarifying the need to go beyond lists to focus on prohibited end-use*, according to the models used for existing catch-all provisions in the multilateral non-proliferation control regimes.

81. *Sanctions committees and expert groups should develop guidance on how to deal with risks in the supply chain* through transport, front companies, etc., making use of available best practices developed in relevant international organizations and arrangements.

82. *The Security Council should consider expanding lists of sanctioned dual-use goods to those items just below thresholds prohibited by existing non-proliferation regimes* but easily modifiable, based on implementation experience and new knowledge of procurement trends.

83. *Relevant export control regimes should be encouraged by Member States to review existing technology transfer controls to ensure they keep pace with technological advancements* (e.g., 3D printing of weapons and ammunitions, modular weapons) and the availability of technical knowhow for weapons manufacturing on the internet.

84. *The Security Council, DPA, and other UN actors, in consultation with relevant sanctions committees and expert groups, should develop a comprehensive strategy for the efficient implementation of sanctions within existing international and national regulatory frameworks*, building on existing efforts of relevant international organizations and arrangements to promote the enactment of legislation, development of regulatory mechanisms and the achievement of effective outreach to manufacturing and transportation sectors, including enhanced communication and information-sharing among Member States.

C. UN sanctions and financial, commodity-related, and enforcement mechanisms

The FATF is a non-UN inter-governmental body that promotes the effective implementation of legal, regulatory and operational measures to combat money laundering, terrorist financing, and proliferation financing. It establishes standards for the implementation of financial sanctions, in particular to freeze the assets and prohibit the financing of designated persons and entities, and assesses its members' compliance with those standards. These standards are accepted by the FATF-style regional bodies (FSRBs) and have been referenced in various UNSC resolutions, in practice endorsed by the Security Council.

The FATF provides guidance to financial institutions and governments which through the intermediary of the FATF-style regional bodies has global reach. While there are no formal arrangements apart from the UN serving as an observer in FATF, practical cooperation with the non-proliferation (Iran and DPRK) and counter-terrorism sanctions committees is ongoing, as well as interaction with the 1540 Committee. Experiences from applying FATF standards and guidance related to financial sanctions are well developed and could be employed also to conflict-related financial measures, perhaps in particular with regard to sanctions regimes involving natural resources in Africa.

Likewise, other international organizations, such as INTERPOL and the OECD, offer models or ways to improve the enforcement of sanctions. OECD due diligence guidelines for responsible supply chains of minerals from conflict and high risk areas provides detailed recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices; it is one of the OECD frameworks available to help companies meet their due diligence reporting requirements. Such procedures can promote more effective implementation of UN sanctions.

1. International institutions' practices related to UN sanctions implementation

85. *DPA and sanctions committees should employ standards, guidance and best practices developed by the FATF concerning financial measures*[21] as inspiration to develop UN guidance for broader conflict-related financial sanctions and other financial measures (e.g., activity-based, vigilance, etc.).

86. *Expert groups should utilise INTERPOL's guidelines regarding identification, tracing and seizure of assets.*

87. *The Security Council should consider including in resolutions, where relevant, due diligence requirements based on the OECD guidelines* for due diligence on conflict minerals, which take the whole supply ch. in into account.

88. *DPA should consider more systematic engagement between sanctions committees and relevant institutions such as the FATF and OECD.*

[21] Beyond those concerning the specific FATF Recommendations 6 and 7 which mainly deal with terrorism and proliferation financing designations and freezing measures).

2. Illicit financing activities and sanctions

The same methods, routes, and infrastructures used by criminal enterprises to generate illicit proceeds from ordinary criminal activities can be used and adapted to finance terrorism, proliferation and other conflict-related activities. Likewise, criminals use similar techniques and networks to circumvent UN sanctions. Additionally, informal methods (not using formal financial institutions but alternative value transfer systems such as hawala, natural resources, etc.) of financing activities sanctioned by the UN Security Council have become more prevalent. Synergies should be sought with arrangements and organizations such as the International Money Laundering Information Network (IMoLIN) and the Council of Europe/Moneyval already engaged in advanced work against economic crime.

89. *Financial experts from expert groups, in cooperation with the FATF, should develop typologies of sanctions violations and illicit financing techniques* generally to better understand and disrupt such activities.

90. Financial experts from expert groups should jointly *examine existing analysis by the FATF and similar organisations of informal sector financing methods to determine the degree to which those methods are being employed to evade sanctions.*

91. *The Security Council and Member States, in consultation with relevant bodies, academia and NGOs, should explore the possibility of employing new instruments to counter changing ways to finance conflict* (e.g. kidnapping for ransom, extortion and other forms of rent, etc.) *and consider the applicability of sanctions to counter conflict financing.*

3. Over-compliance with financial sanctions

As discussed by several HLR working groups, targeted sanctions can have unintended consequences. Some private sector actors, confused by differing unilateral, regional, and UN sanctions, or generally risk-averse and aiming at minimising implementation costs, apply policies resulting in over-compliance (including foregoing legitimate business with entities not subject to UN sanctions, or even all business with a particular country). Humanitarian actors have noted the role of sanctions in dissuading donors' from providing aid to certain regions (see section VI.D), regardless of who is targeted or what derogations may be available. Promoting a clear understanding of the requirements of UN sanctions is important to limit unintentionally broad interpretations of the scope of UN sanctions and unintended consequences.

92. *DPA should prepare and disseminate guidance translating UN sanctions financial requirements into understandable actionable measures for implementation,* including as appropriate the availability of exemptions.

93. *Sanctions committees and expert groups should conduct outreach to raise awareness regarding the specific requirements of UN sanctions with private sector groups* and to understand in greater detail risk factors and data-protection and privacy concerns which may contribute to over-compliance.

94. *The UN through DPA, relevant sanctions committees, and expert groups should be prepared to participate in international discussions such as are foreseen within FATF in the coming years on risk aversion and de-risking.*

95. *The Secretariat should conduct a dialogue with the FATF on minimising the impact of national sanctions on humanitarian assistance.* The Secretariat and FATF should develop guidance on implementation measures that strike a balance between mitigating the risk of diversion of aid and safeguarding the ability of humanitarian actors to respond to humanitarian crises, while maintaining their neutrality and impartiality.

D. UN sanctions and international criminal justice proceedings

UN sanctions increasingly target perpetrators of conduct that could be considered as crimes within the jurisdiction of the ICC or other courts — genocide, crimes against humanity, and war crimes, including attacks against civilians, recruitment of child soldiers, and sexual and gender based violence, as well as serious violations of human rights. In some cases the same individuals could be subject to both court proceedings and UN sanctions. The possibility of sanctions or sanctions-related investigations negatively affecting international criminal investigations and proceedings has been expressed as a concern, and so has the potential that expert panels risk losing access to information should they be perceived as part of criminal investigations. The intersection of sanctions activities of the Security Council and international criminal justice activities highlights the need for awareness-raising of the respective roles and mandates underpinning such activities, as well as for seeking coordination, cooperation, and information exchanges between UN sanctions actors and international criminal justice actors such as the ICC wherever possible, while keeping the distinctive characters of the two systems in mind.

Coordination, cooperation and information exchange between UN sanctions actors and international criminal justice actors need to improve. Awareness-raising, closer contact and more frequent meetings, as well as improved procedures and standards for the collection of evidence, would help in this regard.

The Relationship Agreement between the UN and ICC provides the foundation for the cooperation and coordination between these two institutions. The UN, including its expert groups, has an obligation to cooperate with the ICC whenever appropriate, and the two must consult each other on matters of mutual interest, as detailed in Article 3 of the Agreement.

1. Expert group investigations and international criminal justice investigations/proceedings

The differing evidentiary collection and recording standards of the international criminal justice system and the UN sanctions system should give rise to efforts to promote greater awareness, closer contacts, and the institution of improved procedures to promote coordination and information-sharing. Such efforts should also focus on the field level. While the Office of Legal Affairs (OLA) provides some training to expert groups as part of their induction training, it should be expanded to identify opportunities for information-sharing and coordination between expert groups and the international criminal justice system. Appropriate guidelines and protocols, as well as accompanying training, should be developed to mitigate challenges of information-sharing and evidentiary standards.

To improve cooperation, coordination and information-sharing and mitigate potential problems, both for sanctions related and for criminal justice investigations and proceedings, the following recommendations are proposed.[22]

> 96. *International criminal justice actors should develop guidelines and protocols for criminal justice field investigators to address challenges of information-sharing and coordination with expert groups.*
>
> 97. *International criminal justice actors should review expert groups' reports related to criminal cases to discern lessons.*
>
> 98. *DPA and corresponding international criminal justice actors should establish points of contact at the field level for expert groups and relevant legal actors.*

2. Coordination and information-sharing on sanctions designations and court proceedings

Given their different purposes, the formulation of grounds for listing at times differs from that of the definition of crimes for criminal purposes, although they may target the same conduct. Grounds for listing which target similar conduct may also be expressed differently among sanctions regimes. Furthermore, sanctions designations are public whereas arrest warrants may remain confidential. This fact, and timing issues between the two types of decisions, may in some cases have adverse practical effects for the possibility to implement arrest warrants, in view of the relevant court's jurisdiction, and may make speedy travel of witnesses more difficult. To avoid confusion and differentiate between sanctions and court proceedings, and also to mitigate any practical problems, greater coordination and sharing of information on designated individuals and those subject to arrest warrants/investigations is needed beyond issuing press releases.

The ICC will often have an interest in obtaining information on the tracing and identification of assets and of their freezing or seizure, for the purpose of ongoing investigations or to assess the indigence of a suspect or to implement an order of the Chamber subsequent to a warrant of arrest or summons to appear. To meet such

[22] See also section III.A.

interest, early communication between the Court and UNSC bodies should be improved, where possible.

99. *The Security Council should consider developing standardised criteria for the listing of persons in relation to genocide, crimes against humanity and war crimes*, the detailed grounds of which would then be specified for each relevant sanctions regime.

100. With the ICC as an example, *sanctions committees should consider enabling the automatic listing of persons sought by the Court once a warrant for their arrest has been issued* by a Pre-Trial Chamber for the alleged commission of crimes within the jurisdiction of the Court, particularly where the situation has been referred by the Security Council itself.

101. *International criminal justice actors such as the ICC should develop procedures for notifying the relevant sanctions committees of the existence of an arrest warrant or order to freeze assets.*

102. *Sanctions committees should endeavour to communicate early and to coordinate, where possible, with international criminal justice actors on issues of designations and the freezing and un-freezing of assets.*

103. *The Security Council and sanctions committees should simplify procedures to request exemptions for travel related to judicial procedures.*[23] A standard application for submitting requests for exemptions should be developed.

3. Contact point for ICC and other courts concerning sanctions-related issues

OLA serves as a contact point on general legal issues and often transmits sanctions-related matters to sanctions committees. This creates an additional step for those requiring assistance on sanctions issues, including international criminal justice actors

104. *OLA should establish a single contact point to provide assistance on issues specifically related to sanctions and expert panels*. Such a contact point could also provide assistance with exemptions interfacing with the Focal Point.

[23] See section IV.B.2.

E. Regional Organizations

Security Council sanctions and those deployed by regional organizations increasingly converge. In some cases regional efforts constitute the springboard for UN sanctions, and in other cases follow UN sanctions. The multiplicity of sanctions regimes, however, can be confusing to some actors, as well as to the targets and the private sector, sometimes leading to over-compliance and complicating implementation. Public education and guidance are therefore necessary on the particulars of sanctions measures.

Because of the interplay among different sanctions, it is important to distinguish between (i) UN sanctions; (ii) regional and national measures to implement UN sanctions; and (iii) autonomous sanctions imposed by Member States or regional organizations. The HLR process considered only the first two categories and did not address autonomous sanctions by individual states, or regional organizations.

To enhance implementation of UN sanctions at the national and regional levels, communication with affected regional actors concerning the reasons, objectives and the nature of the sanction measures is important. Cooperation among Member States, relevant regional organizations and the Security Council's sanctions committees can promote more effective UN sanctions.

The lack of awareness and absence of a structured relationship between sanctions committees, UN expert groups, and regional and sub-regional organizations can result in a lack of political will and reluctance by regional and national actors to implement UN sanctions.

There is a need to ensure better exchange of information regarding the peace and security efforts of regional and sub-regional organizations and the UN Security Council's own efforts to improve implementation of UN sanctions at the regional and national level.

105. *The Security Council should strengthen relationships between expert groups and regional and sub-regional organizations to enhance the implementation of UN sanctions.*

106. *Sanctions committees should foster cooperation and exchange of information with regional organizations* and establish best practices in terms of tracking and monitoring sanctions, in particular with regard to designated persons and entities.

107. *The Security Council and DPA should enhance the role of regional organizations and Member States in the implementation of UN sanctions* through regional capacity building efforts and designating regional liaison officers within the Secretariat.

108. *Regional and sub-regional organizations which include a Member or Members subject to Security Council sanctions should appoint a sanctions liaison officer*, to engage both with the relevant sanctions committee and the affected Member State and other members of the organisation, to promote coherence between regional initiatives and the Council's, to monitor implementation of the measures, and to facilitate the availability of technical assistance.

109. *Regional and sub-regional organizations could help to increase transparency of the Security Council's targeted sanctions measures through providing additional details for statements of case of listed individuals or entities* who are active within the territories of their Members, and in ensuring detailed statements of case are prepared by their Members who propose listings under relevant sanctions regimes to the relevant sanctions committee.

F. National Actors

Implementation of UN sanctions requires domestic legal authority and regulatory action by Member States; national authorities must transpose UNSC sanctions requirements into regulations, often through the instrument of national export controls. Moreover, as discussed at numerous HLR consultations, private firms must understand and comply with financing and exports restrictions of dual-use goods and arms. Private economic actors, therefore, play an essential role in implementing UN sanctions, as well as in exercising due diligence regarding their supply chains. Increased reliance on the private sector for complying with UN measures requires systematic engagement and cooperation.

National officials and industry representatives face practical challenges implementing UN sanctions, as discussed by HLR participants. Specific needs identified include: clearer and more consistent terminology in UN resolutions; detailed identifying information concerning designated individuals; consolidated lists across UN sanctions regimes; and implementation guidance. Greater information-sharing and interactions with policymakers designing sanctions would also be helpful to national and private sector actors. A fundamental requirement is enhanced capacity to support Member States' implementation of sanctions. From border controls, to export controls on dual-use products and arms, to financial sanctions, there is a significant need for technical assistance, and states and the private sector require capacity to implement UN sanctions.

1. Interaction and communication

Regular interaction and dialogue between those designing UN sanctions and those responsible for complying with the measures at the national level — regulatory authorities and the private sector — should be encouraged.

110. *Member States should promote regular discussion among national authorities on UN sanctions and export control implementation issues to breakdown functional silos and share experiences.*

111. *Member States should invigorate sanctions-relevant outreach to the private sector* (such as the Wiesbaden Process) to ensure compliance with sanctions, dual use controls, end-use catch-all provisions, and supply chains guidelines.

112. *Member States and DPA should involve civil society to facilitate cross-cutting engagement, raise awareness, and promote greater understanding of UN sanctions.*

2. Private sector implementation of sanctions

Sanctions committees, expert groups, and the private sector should work together to better understand and address sanctions compliance challenges. UN actors could also benefit from the practical expertise of the private sector in designing more effective and implementable asset freezes and other financial measures.

113. *DPA should establish a contact point within the Secretariat for private sector entities and their organizations whose business is affected by sanctions, and conduct regular meetings to better understand implementation challenges.*

114. *Sanctions committees should include as many detailed identifiers (names, location, business registration numbers, alias, etc.) as possible, and make sanctions requirements more user-friendly.*

115. *DPA should prepare and disseminate practical guidance translating UN sanctions into understandable and actionable measures.*

116. *Member States and DPA should conduct targeted awareness-raising initiatives with the private sector to explain requirements and learn about risk, data-protection, and privacy concerns that may contribute to over-compliance.*

117. *The Security Council should encourage Member States to enact national legislation, develop regulatory mechanisms, and reach out to relevant manufacturing and transportation sectors to promote effective implementation of UN sanctions.*

118. *The Security Council and Member States should emphasise overall outcomes and efficiency of sanctions in monitoring implementation and compliance, rather than focus predominantly on technical compliance.*

3. Role of civil society and NGOs

A number of NGOs closely follow the work of the Security Council sanctions committees and actively engage on sanctions issues. Many of these participate in an NGO Working Group on the Security Council that since 1997 has met with members of the Security Council and the UN Secretariat to discuss items on the Council's agenda. Because of the diversity of its membership, the NGO Working Group as a whole does not undertake specific advocacy positions, but rather provides a forum for NGOs and members of the Security Council to come together to exchange information and build relationships for bilateral advocacy. But NGOs and other civil society actors in their individual capacity, or in thematic coalitions, do play an advocacy role, including in relation to sanctions, and are sources of information concerning sanctions violations.

The most active of these tend to be NGO coalitions formed around "thematic" items on the Council's agenda. The Watchlist on Children and Armed Conflict is a network of international non-governmental organizations which collects and disseminates information on violations against children throughout the world and uses this information to advocate for change. It provides technical support and advice to its constituent members to strengthen their ability to monitor abuses, to advocate on behalf of children in their communities and to respond to the immediate needs of victims. It circulates a monthly update to all Members of the Security Council recommending action on related items on the Council's agenda for that month.

Similarly, the NGO Working Group on Women, Peace and Security advocates for the equal and full participation of women in all efforts to create and maintain international peace and security, serving as a bridge between women's rights defenders working in conflict-affected situations and policy-makers on the Council and in the Secretariat. It originated as a campaign for a Security Council resolution on Women, Peace and Security and has since focused on implementation of all Security Council resolutions that address this issue, including those applying sanctions to perpetrators of violence against women and girls in conflict. It also circulates monthly action points to all Security Council members, recommending action on related items on the Council's agenda for that month.

The monthly bulletins of both coalitions regularly include recommendations related to sanctions and how they could be better applied to protect the communities of focus to the coalition. These bulletins provide a valuable reference for experts in the Permanent Missions of Security Council members. These NGO working groups are themselves a valuable reference for the Permanent Missions of elected Council members in particular, as their records and research provides a base of long-term institutional knowledge on Council action that is often not otherwise accessible to elected Members.

119. *The Council, sanctions committees, expert groups and Member States should engage civil society to take advantage of their research and promotional capabilities* to raise awareness and encourage greater understanding of the objectives of UN sanctions among relevant actors.

VIII. FACILITATING TECHNICAL ASSISTANCE

A constant thread throughout all HLR working group discussions concerned the importance of building capacity within the UN system, and most importantly in Member States to understand and implement UN sanctions. Gaps in such capabilities remain a challenge, and affect both national implementation and international cooperation on sanctions compliance, monitoring, and enforcement. Ultimately, the effectiveness of UN sanctions depends in large part on whether technical assistance can be facilitated to enhance Member States' capacity to implement the measures.

Assistance providers consulted expressed a willingness to adapt their respective assistance and offer their capabilities both within the UN system and to Member States to support skills essential to the implementation of sanctions. Synergies could

be leveraged if applied to all sanctions regimes, and if such assistance were provided in a coordinated way. A better understanding is necessary of both potential sanctions assistance providers, as well as the specific gaps that need to be addressed.

A. Raising awareness of availability of assistance

Several UN entities provide training to States on the development of general regulatory capacity relevant to sanctions implementation (e.g., border/customs/immigration control, monitoring financial flows, etc.). CTED and the 1540 committee, as well as UNODC's Terrorism Prevention Branch, provide or facilitate technical assistance specific to counter-terrorism or WMD proliferation, but generally these do not extend to other sanctions regimes. Connection between existing assistance providers and sanctions implementation is not consistently made. While existing providers expressed a readiness and willingness on their part to tailor their assistance to the specific needs of sanctions if requested, they were rarely, if ever, asked to do so. Overall, availability of sanctions-related capacity assistance is not well understood.

The Secretariat's IAWG noted that UN assistance providers had proven helpful in Secretary-General-led sanctions-related assessments in Somalia and Liberia. Yet existing UN expertise for capacity building and technical assistance relevant to sanctions were under-utilised, despite relevant entities' willingness to offer their capabilities both within the UN system and at the national level. There is, therefore, a need to generate greater awareness of available sanctions assistance.

Among Member States consulted by the Review there was some expectation that expert groups should be a greater source of advice and technical assistance than they currently are. One participant noted that close cooperation on a bilateral basis with the committee and the expert group greatly helped with implementation of the relevant resolutions, while another noted that expert groups lack the necessary expertise to advise on development matters; yet another suggested that experts tend to focus solely on their investigative mandate, to the detriment of their assistance mandate. Indeed, given experts' investigative, monitoring and reporting mandates, their participation in technical assistance assessments could cause some states to feel ill-at-ease regarding gaps in their own capabilities.

120. *The Subsidiary Organs Branch, sanctions committees, and expert groups should promote greater awareness of existing assistance relevant for sanctions.*

121. *Within existing resources (until an assessment of sources and needs are determined), the Subsidiary Organs Branch should coordinate technical assistance.*

122. *Existing technical assistance programmes for financial and/or export controls should be tailored, to the extent practicable, to incorporate sanctions implementation.*

B. Integration with other assistance

Participants noted that assistance related to sanctions implementation has the potential to provide developmental benefits beyond sanctions themselves (the so-called "dual benefit"). General assistance to regulate the movement of goods and people across borders (e.g., to prevent trafficking in goods or people, promote collection of levies, tariffs and taxes, and to meet international drug control obligations) could also assist in the implementation of sanctions (goods embargoes, travel bans); similarly, existing financial regulation programmes could also assist in the implementation of financial sanctions.

The 1540 Committee currently facilitates assistance regarding border controls (for non-proliferation purposes), as does CTED and the Al Qaida sanctions committee and monitoring team, but synergies could be leveraged and coordinated for all UN sanctions regimes. The monitoring component of sanctions is also a significant advantage to both the provider and the recipient of assistance. As UN sanctions include a monitoring system and field presence, provider and the recipient States could work in partnership to utilise this monitoring system to ensure that capacity assistance is being effectively deployed.

C. Coordinating sanctions technical assistance

The UN system, in the Subsidiary Organs Branch, sanctions committees, and expert groups, contains components necessary to begin coordination of sanctions assistance within existing resources, and a number of recommendations, if adopted, would further strengthen the system's capacity to do so. The proposed Standing Technical Committee (STC) could play an important coordination role for technical assistance (similar to the CTC and 1540 committee for counter-terrorism and non-proliferation-related assistance) supported by the IAWG.

1. Assessment and provision of assistance

The Subsidiary Organs Branch (or the STC supported by the IAWG) could determine a *priority list of Member States for assessment in relation to technical capacity to implement sanctions*, in consultation with relevant sanctions committees, expert groups, UN field missions and UN system assistance providers. Prioritization would focus on States subject to sanctions and immediate neighbours, as well as the trade, financial and travel hubs for regions where sanctions apply. Priority for assessment would also be determined in accordance with the prevailing security situation and level of implementation in the relevant State. The Subsidiary Organs Branch (or STC) would then coordinate assessment missions in accordance with the priority list. Such missions would occur with the consent of the assessed State and, where possible and appropriate, with the participation of the relevant regional organisations.

The Subsidiary Organs Branch (or the STC) would maintain a roster of sanctions-relevant assistance providers, including UN system assistance providers: UNODA for arms regulation, UNMAS for arms stockpile management, UNODC for border control, CTITF for assets freezes, as well as UN Specialised Agencies such as ICAO and IMO, and other international organisations such as WCO, INTERPOL, OECD, regional bodies of the FATF, and the Kimberley Process.

The relevant sanctions committee, with help from the Subsidiary Organs Branch, would oversee the provision of assistance, based on the report of the assessment mission, the roster of assistance providers, and the specific preferences of the State concerned. If the sanctions committee maintains an "action plan" with the relevant State, then the programme of assistance would be included in the plan.

123. *A capacity assistance "mapping exercise" should be undertaken to provide a comprehensive assessment of which organizations/ arrangements, UN bodies, and Member States can provide assistance or perform clearinghouse functions.* The Subsidiary Organs Branch or STC should maintain a roster of sanctions-relevant assistance providers.

124. *The Subsidiary Organs Branch should determine a priority list of Member States for assessments in relation to technical capacity to implement sanctions* (in consultation with relevant sanctions committees, expert groups, UN field missions and UN system assistance providers).

125. *The Subsidiary Organs Branch should organise and coordinate assessment missions in accordance with the priority list*, and determine whether existing assistance programmes would (or could be adapted to) address the capacity gaps, or whether new capacity initiatives are necessary.

2. Funding

Technical assistance requires funding. Existing programmes and funding arrangements might cover some aspects of sanctions implementation assistance (or could be adjusted to include relevant sanctions-specific content). However, to ensure adequate funding and priority attention over the long run, the Security Council should establish a Trust Fund. A model for such an initiative includes the UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR), administered by the UNODA, which disburses funds with the agreement of contributors to the fund. In addition, the UN system brings the advantage of an established system for implementation monitoring to technical assistance. This monitoring should motivate recipient States to ensure that capacity provided is being appropriately internalised and deployed and address any follow-up issues.

126. *The Security Council should ensure sufficient funding and focus for sanctions capacity building efforts though the creation of a Trust Fund for sanctions implementation.* The Trust Fund for sanctions-related technical assistance should be administered by DPA.

127. *Expert groups or UN Missions on the ground with existing mandates to assist the work of the relevant committee or expert group, should provide feedback on the status of implementation*, in partnership with the original assistance provider and any participating regional organization.

128. *The STC should coordinate assistance with regional and sub-regional groups focused on sanctions compliance and implementation of related controls.*

3. Assistance for the UN system, private sector and civil society

Beyond Member States, the UN system would benefit from regular sanctions-related training and capacity building assistance since resources are not routinely provided to Secretariat staff, expert groups, and others. Building ties with civil society organizations to promote greater awareness and understanding of the purposes of UN sanctions and need for implementation, also would be helpful. As UN financial, commodity, and dual-use sanctions rely on implementation by private sector firms, greater coordination to ensure adequate sources of assistance to help the firms navigate and comply with UN sanctions would be useful. Inspiration could be taken from the work of the OECD on guidelines for due diligence on conflict minerals.

129. *The Security Council, through the Subsidiary Organs Branch or the STC, should institute regular UN system-wide training on the roles and skills needed by various actors to implement UN sanctions*, including training of Secretariat personnel, particularly committee secretaries, supporting the work of expert groups.

130. *The Security Council, through Subsidiary Organs Branch or the STC, should work with regional bodies, as well as private sector groups, to promote greater awareness of and compliance with UN sanctions, and to provide capacity building assistance for the implementation of UN sanctions.*

IX. ONGOING AND EMERGING CHALLENGES

In addition to the discussion of ongoing challenges, the HLR considered a range of additional thematic issues which the UN system should consider in the context of sanctions. These include persistent challenges to UN sanctions with the potential to discourage effective implementation, such as the unintended humanitarian impact of sanctions and ongoing legal challenges; situations that may not yet be subject to the Security Council's attention but for which UN sanctions might usefully play a role; and issues that may already be subject to sanctions but where greater attention is required to the role of sanctions generally in addressing these threats, and designations of individuals acting contrary to international peace and security, specifically.

Based upon HLR consultations, circumstances requiring more concerted consideration include issues related to women and children, natural resources, and use of the Internet and digital technologies. More specific issues noted in working group deliberations include stemming corruption and organised crime; use of the Internet for propagating hate speech and supporting terrorism (through ordering or planning attacks; providing information on bomb-building, raising funds, or

recruitment); the role of mid-level commanders in facilitating human rights violations; sexual violence and other forms of gender-based crimes and targeted attacks against women; the use of children in conflict; failure to comply with the responsibility to protect; the phenomenon of foreign fighters; cyber security; trafficking of wildlife and wildlife products; and the increasing collaboration between terrorist and other organised criminal elements resulting in illicit financial flows funding conflict. Consideration should be given to applying sanctions tools more broadly to tackle these types of current and emerging challenges.[24]

131. *The Security Council should expand sanctions designation criteria, where appropriate, to better address existing and emerging threats in relation to the situation targeted by sanctions*, for example, by including specific human rights violations not explicitly covered under the existing regime. In general, the Security Council should use existing sanctions regimes more effectively to enforce thematic priorities, including those related to the Children and Armed Conflict and Women, Peace and Security agendas.

132. *The Security Council should consider adopting thematic sanctions regimes in addition to country-specific sanctions to address global threats, such as incitement to genocide, sexual violence in conflict, human trafficking, and gross violations of women's rights.*

133. *The Secretariat and the Security Council should work with international and regional organizations, including INTERPOL, to expand information exchange and the use of existing tools and databases to explore linkages between sources of financing* (for example various criminal activities such as trafficking in arms, human beings, and natural resources) *and use of the Internet to violate UN sanctions.*

134. *The General Assembly should be requested to make additional resources available to meet the requisite technical, language, and substantive skills needed to strengthen the Secretariat's capacity to assist the sanctions bodies and expert groups.*

A. Assessing sanctions impact[25]

In the past 25 years, Security Council sanctions have been the subject of overlapping crises of confidence among various actors and the general public regarding their humanitarian impact. The first was rooted in the comprehensive UN

[24] The Security Council declared that Ebola was a threat to international peace and security (resolution 2177 (2014)) in which case obstruction of medical and humanitarian aid could be subject to sanctions. In PRST/2014/23 (19 November 2014) the Security Council "[expressed] its determination to consider listing pursuant to resolution 2161 (2014) individuals, groups, undertakings and entities associated with Al-Qaida who are financing, arming, planning, or recruiting for them, or otherwise supporting their acts or activities, including through information and communications technologies, such as the internet, social media, or any other means."

[25] See also sections VI.D. and VII.C.3.

sanctions on Iraq in 1990 and the second was triggered by due process issues concerning listing and delisting of persons and entities subject to individual targeted sanctions, primarily under the 1267 (formerly Al-Qaida and Taliban) sanctions regime.

The gradual evolution from comprehensive to targeted sanctions in the 1990s with progressive refinements resulting from the Interlaken, Bonn-Berlin, and Stockholm processes, has largely addressed many concerns about the unintended humanitarian impact of sanctions on populations. One of the earliest actions towards change was taken by the Council itself, in the form of a non-paper written in 1995 by the five permanent members on the humanitarian impact of sanctions.[26]

Over time, the Office of the Coordinator for Humanitarian Affairs (OCHA), sometimes in conjunction with other UN departments, was tasked with conducting assessments and pre-assessments. There has also been a steady movement toward standardising humanitarian exemptions (exemptions to allow listed individuals to receive assistance on a case-by-case basis in response to specific humanitarian needs). This movement was led by the 1267 Committee and was gradually generalised across other sanctions committees over time. All Security Council sanctions since Haiti (1994) have been targeted, constituting some combination of an arms embargo, travel and aviation bans, asset freezes and commodity bans.

Few assessments have been made, however, of the potential unintended consequences of targeted sanctions, and they generally are presumed to have little direct impact, other than on the individual targets.[27] Specifically targeted asset freezes, in fact, have limited impact but broader financial sanctions such as those imposed on Libya in 2011, had economic effects beyond their original intent. HLR participants discussed the problems associated with Libyan sanctions on the Central Bank and the petroleum and investment sectors. In this case, UN sectoral sanctions were less targeted than individual assets freezes and travel bans and had a broader impact.

135. *The Council should conduct periodic assessments of the impact of its measures*, including in consultation with humanitarian actors and other agencies operating in the field, as well as with the host State, where appropriate. These assessments should be made public.

136. *The Security Council should, to the extent possible, commission pre-assessments of the humanitarian and socio-economic effects when contemplating imposition of broad sectoral or financial sanctions.*

B. Natural resources

UN sanctions in the form of bans on the importation of certain natural resources are not new. In 1966, an embargo against the exportation and importation of raw

[26] S/1995/300, April 1995.

[27] See *Targeted Sanctions: The Impact and Effectiveness of UN Action*, edited by Thomas Biersteker, Sue Eckert and Marcos Tourinho, Cambridge University Press, 2015 for a discussion of the unintended consequences of targeted sanctions.

materials from and to Southern Rhodesia was the first sanctions regime involving natural resources. The Kimberley Process attempts to stop the trade of conflict diamonds. In connection with the sanctions on the Democratic Republic of Congo, due diligence obligations were imposed for all actors involved in the trade of certain minerals originating from the Eastern Congo. In 2014, the Council adopted additional measures against individuals and entities illegally supporting armed groups through the illicit trade of wildlife and wildlife products in the Central African Republic.

Applying sanctions to trade in natural resources requires great care to avoid unintended consequences. With some exceptions, the targets for such sanctions are primarily non-state actors and armed opposition groups. Because the natural resources trade can serve as the main source of revenue for the affected countries, there is an obvious possibility that legitimate trade could also be affected. Similarly, the non-state actors who seek to use natural resource revenues to fund conflict usually rely on artisanal communities and regional economic structures, often through coercion, to access and sell the resources. There is therefore a risk that sanctions targeting the sector could "double victimise" these communities. Sanctions regimes targeting the exploitation of natural resources should be made adaptable and flexible.

On the other hand, the trend of evolving sophistication of sanctions strategies in the illicit trade in natural resources and wildlife has shown the potential to catalyse reform and improve responsible business practices of all stakeholders involved in affected countries and regions. Properly applied sanctions may therefore strengthen the national economic position of the country in question, by ensuring its natural resources are preserved for the development of the national economy, and not used as a source of conflict and instability. By requiring strengthened governance arrangements for natural resources, the sanctions can also prevent natural resources becoming themselves a source of conflict.

137. *The Security Council should make better use of existing mechanisms* (e.g. listing criteria, due diligence guidelines and panel of expert reporting) *to address linkages between natural resource management, private sector actors, financing of targeted entities, and armed conflict.*

138. *The Security Council should adopt a carefully monitored due diligence-based approach that rewards legal trade while members of illegal armed groups or organised crime organizations are blocked from benefiting from such trade.*

139. *The Security Council should consider the impact of sanctions on legitimate livelihoods when adopting due diligence measures.*

140. *The Security Council and sanctions committees should develop specific capacity assistance focused on compliance with natural resources sanctions.*

C. Women and children

In recognition of the plight of women and girls as the overwhelming majority of the victims of rape or other forms of sexual violence, and whose roles in the community often exposes them to heightened risks, the Security Council focuses significant attention on the theme of "women, peace and security." Annual open debates are held on women as well as the specific issue of gender-based and sexual violence in conflict. In 2013, the Council referenced the women, peace and security agenda in thematic resolutions on small arms (S/RES/2117), counter-terrorism (S/RES/2129) and peacekeeping (S/RES/2086). It has specifically included gender-based and sexual violence as designation criteria on over half of its targeted sanctions regimes, and has included a "women, peace and security" mandate in 11 peacekeeping and special political missions. The issue is further supported by an effective NGO Working Group, which circulates "Monthly Action Points" to all Council members in a bid to influence Council decision-making.

The UN Special Representative for Children and Armed Conflict and UNICEF work together with other partners as part of MRM on six grave violations against children in conflict situations including the recruitment and use of children as combatants, and in support functions that place them in grave danger. Parties to conflict who commit such violations against children are named in the annexes of the Annual Report of the Secretary-General on children and armed conflict.

However, as with so many dimensions of the responses to threats to international peace and security, these strong normative actions are impeded by inconsistent and less than effective implementation. The protection of women and children needs to be improved through enhanced coordination with all assistance providers in conflict regions and backed up with a credible threat of sanctions for those who impede these protection mandates.

141. *The Security Council should establish a coordination mechanism between the thematic SRSGs and the women and child protection advisers within peacekeeping operations and special political missions to enhance the sharing of information* between relevant actors on parties to armed conflict that are credibly suspected of committing or being responsible for acts of rape or other forms of sexual violence, and the recruitment and use of children in conflict.

142. *The Security Council should continue to include the protection of women and girls, particularly against acts of rape or other forms of sexual violence, in SRSG mandates in conflict regions*. The Secretariat should in turn improve coordination of UN-system wide efforts for their protection; conduct more sensitization and training; introduce a more results-based approach, and more frequent and accurate reporting, and sensitization regarding the protection of sources and victims.

143. *The Security Council should include* in the mandate and in existing mechanisms for the protection of women and girls *an obligation to report perpetrators and their military and political leaders to expert groups and to the relevant sanctions committees.*

144. *The Secretariat and peace-keeping missions should sensitise and train personnel and peacekeepers in UN gender standards, test such personnel in the field and ensure that violations are reported.*

145. Consistent with the three principal pillars of the UN Women, Peace and Security agenda established through Security Council resolution 1325 (2000) (prevention, protection and participation), and with General Assembly resolution 65/69, and its subsequent versions (women, disarmament, non-proliferation and arms control) *greater emphasis should be placed on efforts to increase the participation of women in decision-making processes for preventing and combatting conflict.*

D. Internet and digital technologies

In this area, the primary imperative is to prevent the use of the Internet and information and communication technology for propaganda, the circulation of hate speech, and the recruitment and financing of violent extremism, while balancing the right to privacy and freedom of expression. Because most countries have Internet providers and users, this issue requires better coordination and cooperation, including requesting private companies to block websites used to circulate terrorist-related propaganda.

The transnational nature of cybercrime makes complicates cooperative law enforcement and investigative work. The framework adopted by the Council of Europe in 2001 through the Convention on Cybercrime could play an important role in addressing these emerging threats but has yet to be accepted universally or harmonised in countries implementing the Convention. Given that terrorist use of the Internet defies national borders, it is necessary to promote a coordinated international response to combat this threat. Enhancing investigative capacities and strengthening international cooperation will facilitate the determination of which countries and/or individuals are responsible for cybercrimes, therefore making the imposition of UN sanctions possible.

For UN expert groups, tackling issues of cybercrime has been minimally successful owing to a lack of technical expertise and linguistic capability within panels and resources for consultants. In particular cases, arms trafficking routes were synonymous with other major transnational issues, i.e. human trafficking and smuggling.

146. *Member States should address transnational threats and new technologies, including the use of the Internet for illicit activities, within existing frameworks*, including under Security Council resolutions 2161 and 2178. Other stakeholders including Internet users and the IT industry should be engaged to address such threats in the implementation of sanctions.

147. *The Security Council should enhance investigative capacities and strengthen international cooperation to determine which countries and/or individuals or entities are responsible for abuses of cyberspace affecting international peace and security, facilitating the imposition of UN sanctions.*

148. *The Security Council should encourage adoption of relevant national legislation criminalising the use of the Internet for terrorist purposes* (e.g. recruiting, fundraising, etc.) and encourage international cooperation between Member States as well as with intergovernmental organizations in this regard.

149. *The Security Council should expand and extend to other sanctions regimes the prohibition in the Al-Qaida and Taliban sanctions related to the provision of financial or economic resources for Internet hosting or related services* for the purposes of promoting terrorism or other norm-breaking activities, as a violation of the asset freeze.

150. *The Security Council should ensure the provision of additional resources to meet the technical and substantive skills needed to strengthen the Secretariat's capacity to assist sanctions actors*, including expert groups, and for the groups themselves to have the requisite resources and technical expertise to carry out the increasing demands of their mandates.

APPENDIX I: UNITED NATIONS SECURITY COUNCIL SANCTIONS (1990-2015)

Cases	*Comprehensive*	*Targeted*								*Panel of Experts*	*Number of Individuals Entities Currently Listed*
		Arms	*Financial*	*Travel*	*Aviation*	*Oil*	*Diamonds*	*Timber*	*Other*		
Iraq[i] *(1990-*	[✓]	✓	✓[ii]								**86 individuals, 208 entities**
[Former Republic of Yugoslavia] *(1991-1996)*	[✓]	[✓]	[✓]	[✓]	[✓]						**N/A**
Somalia/ Eritrea *(1992-*		✓	✓	✓					✓[iv]	✓	**13 individuals, 1 entity**
[Libya I] *(1992-2003)*		[✓]	[✓]		[✓]				[✓][v]		
Libya II *(2011-*		✓	✓	✓		✓				✓	**20 individuals, 2 entities**
Liberia *(1992-*		✓	✓	✓			[✓]	[✓]		✓	**21 individuals, 30 entities**
[Haiti] *(1993-94)*	[✓]	[✓]	[✓]	[✓]	[✓]	[✓]					**N/A**
[Angola (UNITA)] *(1993-2002)*		[✓]	[✓]	[✓]		[✓]	[✓]		[✓][vi]	[✓]	**N/A**
[Rwanda] *(1994-2008)*		[✓]								[✓][vii]	**N/A**
[Sudan I] *(1996-2001)*				[✓]	[✓]				[✓][viii]		
Sudan II *(2004-*		✓	✓	✓						✓	**4 individuals, 0 entities**
[Sierra Leone] *(1997-2010)*		[✓]		[✓]		[✓]	[✓]			[✓]	**N/A**
Al Qaida/ Taliban[ix] *(1998-*		✓	✓	✓	[✓]				✓	✓	**230 individuals, 71 entities**
[Eritrea/ Ethiopia] *(2000-2001)*		[✓]									**N/A**
Democratic Republic of Congo *(2003-*		✓	✓	✓	✓					✓	**31 individuals, 9 entities**
Côte d'Ivoire *(2004-*		✓	✓	✓			✓			✓	**6 individuals, 0 entities**
Lebanon/Syria[x] *(2005-*			✓	✓							**0 individuals, 0 entities**

Cases	*Comprehensive*	*Targeted*								*Panel of Experts*	*Number of Individuals Entities Currently Listed*
		Arms	*Financial*	*Travel*	*Aviation*	*Oil*	*Diamonds*	*Timber*	*Other*		
Democratic People's Republic of Korea *(2006-*		✓	✓	✓					✓[iv]	✓	12 individuals, 20 entities
Iran *(2006-*		✓	✓	✓						✓	43 individuals, 78 entities
Taliban[vii] *(2011-*		✓	✓	✓						✓	135 individuals, 5 entities
Guinea-Bissau *(2012-*				✓							11 individuals, 0 entities
Central African Republic *(2013-*		✓	✓	✓						✓	2 individuals, 0 entities
Yemen *(2014-*		✓	✓	✓						✓	5 individuals, 0 entities
South Sudan *(2015-*			✓	✓						✓	0 individuals, 0 entities

Brackets [ ] indicate UN sanctions terminated.

[i] As of 1 June 2015. S. Eckert, Watson Institute.

[ii] The 296 names listed under the Iraq Sanctions Regime are not subject to either targeted financial nor travel sanctions. The listing relates to the recovery of assets owned or controlled by those individuals and entities outside of Iraq prior to 22 May 2003.

[iii] Frozen assets transferred to Iraqi Development Fund.

[iv] Charcoal exports and imports.

[v] Oil-related equipment.

[vi] Sanctions against UNITA included diplomatic measures (closing of offices), a ban on the supply of aircraft, spare parts and servicing, prohibition on equipment for mining/mining services, and a transportation ban on motorised vehicles, watercraft, and ground or water-borne services to areas in Angola.

[vii] Commission of Inquiry to collect information on the arms embargo (first expert-panel type mechanism).

[viii] Diplomatic restrictions including reduction in the number and level of staff at Sudanese missions.

[ix] UNSCR 1988 (June 2011) separated the Taliban from al Qaeda and established a new Taliban sanctions regime.

[x] UNSCR 1636 authorised measures against individuals designated by the international independent investigation commission or the Government of Lebanon suspected of involvement in the 14 February 2005 terrorist bombing in Beirut, Lebanon that killed former Lebanese Prime Minister Rafiq Hariri and 22 others. No individuals have ever been designated.

[xi] Luxury goods.

[xii] UNSCR 1988 (June 2011) separated the Taliban from al Qaeda and established a new Taliban sanctions regime.